

ADVISORY COMMITTEE
LOCAL BANKRUPTCY RULE
ADVISORY COMMITTEE NOTES (2003)

Preface

These Advisory Committee Notes to the annotated and redlined version are provided for the purpose of documenting the analytical processes of the Local Rules Committee for the United States Bankruptcy Court, District of Utah. The changes referenced herein reflect: (1) amendments to the Federal Rules of Civil Procedure, Federal Rules of Bankruptcy Procedure and Rules of Practice for the United States District Court for the District of Utah enacted after the effective date of the current local bankruptcy rules that are in effect as of the effective date of these rules; (2) the current practice before the Bankruptcy Court; (3) the elimination of parallel rule references; (4) number changes from words to numerals; (5) inclusion of rules related to electronic filing patterned after, but not identical to, the Model Local Bankruptcy Court Rules for Electronic Case Filing approved by the Judicial Conference of the United States; and (6) stylistic changes adopted according to the guidelines promulgated by the Judicial Conference's Standing Committee on Federal Rules of Practice and Procedure and as set forth by Bryan A. Gardner in *Guidelines for Drafting and Editing Court Rules*. Where stylistic changes are noted in the annotation, those changes include replacing *pursuant to* with *under*, *shall* with *must*, *may* or the use of other words of authority as defined in Local Rule 1001-1(d).

LOCAL RULES OF PRACTICE
OF THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

Frank E. Moss United States Courthouse
350 South Main Street
Room 348
Salt Lake City, Utah 84101

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RULE 1001-1

LOCAL RULES - GENERAL

L. R. 1001-1:

Title: The title has not changed.

Text:

- (a) On September 1, 1997, amendments to the Rules of Practice for the United States District Court for the District of Utah, which in part changed the format of the District Court's local rules, became effective. The District Court's amended rules deleted references to the General Rules, Civil Rules, and the District Court Rules of Bankruptcy Procedure, and all applicable rules were incorporated into the Civil Rules of the District Court's Rules of Practice. Thus, references in current subsection (a) to the General Rules, the Civil Rules, and the District Court Rules of Bankruptcy Procedure have been deleted. Use of the District Court's abbreviation "DUCivR" in the proposed Local Rules will aid in directing persons using these Local Rules to the appropriate District Court Rule of Practice. All other proposed amendments to subsection (a) are stylistic.
- (b) Subsection (b) has been clarified to inform individuals who are appearing without an attorney that they may obtain copies of the Local Rules from the clerk upon request and payment of the fee. All other changes are stylistic, including the deletion of the latin phrase "pro hac vice."
- (c) DUCivR 83-7.4 authorizes the court to amend its local rules. Thus, the language in current subsection (c) has been deleted, and the amended rule simply refers to DUCivR 83-7.4. The amendment deletes the provision allowing the court to make non-substantive amendments without notice.
- (d) Subsection (d) is new and defines words of authority used in the Local Rules.

(a) **Scope and Citation.** Title 11 ("the Code") and portions of ~~Titles~~ 18 and 28 of the United States Code, the Federal Rules of Bankruptcy Procedure ("Fed. R. Bankr. P."), the Rules of

Practice of the United States District Court for the District of Utah (“DUCivR”), ~~including the General Rules, the Civil Rules and the District Court Rules of Bankruptcy Practice and Procedure,~~ and these Local Rules of Practice of the United States Bankruptcy Court for the District of Utah (“Local Rules”), and all standing orders of the court issued under Local Rule 1001-2(a), govern proceedings and practice before the United States Bankruptcy Court for the District of Utah (“court”). These Local Rules ~~shall~~ should be cited as “Bankr. D. Ut. LBR ____” or “Local Rule ____.”

(b) **Availability.** Copies of these Local Rules, with appendices, are available from the clerk's office for a reasonable charge to be determined by the clerk. Upon admission to the bar of the United States District Court for the District of Utah, each attorney ~~shall~~ will be provided a copy of these Local Rules, with appendices, in force at the time of admission; ~~however, a.~~ Attorneys admitted ~~pro hac vice~~ pursuant to Local Rule 2090-1(b) and individuals appearing without an attorney will be provided a copy of these Local Rules upon request and ~~upon~~ payment to the clerk of the appropriate fee.

(c) **Amendments to the Local Rules.** ~~When amendments to these Local Rules are proposed, notice of such proposals and of the ability of the public to comment thereon shall be provided as directed by the court. When amendments to these Local Rules are made, notice of such amendments shall be provided as directed by the court. Amendments that are not substantive in nature, such as the renumbering of Local Rules to comply with the requirements of the Fed. R. Bankr. P. 9029(a)(1), will not be subject to public comment.~~ The court may amend these Local Rules subject to DUCivR 83-7.4. The court will provide notice of proposed amendments and, after a comment period to be determined by the court, notice of the effective date of the approved amendments.

(d) **Definition of Words of Authority.** As used in these Local Rules, the following words of

authority have the meaning indicated:

must	=	is required to
must not	=	is required not to
may	=	has discretion to
		is permitted to
		has a right to
is entitled to	=	has a right to
will	=	(expresses a future contingency)
should	=	(denotes a directory provision)

RULE ~~1002-2~~1001-2

LOCAL RULES - STANDING ORDERS

L. R. 1001-2:

Title: The rule has been renumbered from “1002-2” to “1001-2,” to correct an error in the current rule.

Text:

- (a) The rule has been changed to require the approval of the Chief Judge of the District Court of any standing order. Current subsection (a) states that the rules supersede all former standing orders. This rule is not necessary and has been deleted.
- (b) Due to the elimination of current subsection (a), current subsection (b) will become subsection (a). The rule makes clear that attorneys and individuals appearing without an attorney should be familiar with the court’s standing orders. The subsection also states that the court’s posted electronic filing usage protocols, which may change frequently as technology changes, do not have the effect of standing orders. All other changes to current subsection (b) are stylistic.
- (c) Due to the elimination of current subsection (a), current subsection (c) will become subsection (b). All changes to current subsection (c) are stylistic.

~~(a) Existing Standing Orders Superseded These Local Rules supersede all of the court's standing orders in effect on February 24, 1997, the effective date of these Local Rules.~~

~~(b)~~ **Issuance and Availability of Standing Orders or Amendments Thereto**. The court may issue ~~standing orders or amendments to existing~~ standing orders ~~so as~~ to govern practice and procedure before this court ~~with the approval of the Chief Judge of the District Court~~. All ~~attorneys practicing~~ **individuals entering an appearance** before this court ~~shall~~**should** be familiar with the ~~court's~~

standing orders ~~and amendments thereto. A current listing of the court's standing orders, with copies of~~
~~all such.~~ Copies of all current standing orders ~~and amendments thereto, shall~~ should be maintained by the
clerk, and made available to the public for inspection and copying. The court may from time to time post
usage protocols related to electronic filing to assist Filing Users. The court's posted usage protocols do
not have the effect of standing orders.

(**cb**) **Publication of Standing Orders** ~~or Amendments Thereto.~~ ~~Upon the issuance of~~
~~any~~ When a new standing order ~~or amendment thereto is issued,~~ the clerk ~~shall~~ should post the standing order
~~or the amendment~~ outside the clerk's office for ~~a period of~~ at least ~~three~~ 3 months. The clerk ~~shall~~ should
also submit the standing order ~~or amendment~~ to the Utah Bar Journal for publication immediately after the
standing order or amendment is issued.

RULE 1007-1

DEBTOR'S DUTY TO PROVIDE LIST OF ADDRESSES FOR NOTICE

L. R. 1007-1:

Title: The title is new.

Text: This new rule contains the text of current Local Rule 2002-1(d) with changes to accommodate electronic presentation of address lists, and with other stylistic changes. The text was moved to a separate rule because the debtor's duty to file a list of creditors and parties in interest better supplements Fed. R. Bankr. P. 1007, dealing with lists the debtor must file in conjunction with a petition, than Fed. R. Bankr. P. 2002, which deals with notice.

~~In connection with filing the petition, t~~ The debtor is responsible for providing the Court with current and accurate addresses of parties in interest including zip codes ~~must file with the petition, or present electronically within 2 days thereafter,~~ a list containing the name and address, including zip code, of each creditor and party in interest ~~in a format designated by the clerk.~~

RULE 1007-32

STATEMENT OF INTENTION

L. R. 1007-2:

Title: The rule is renumbered from “1007-3” to “1007-2” to correct a numbering error under the current rule, and to reflect that it follows new rule 1007-1.

Text: Current rule 1007-3 states that the debtor is required to file a statement of intention by the first date set for the meeting of creditors. If the debtor fails to comply, the clerk is required to enter an order dismissing the case on the tenth day after the meeting, unless an objection is filed which stays the dismissal. A hearing on the objection must be held within 30 days of the filing of the objection, to prevent dismissal of the case.

The proposed amendment changes this procedure. If a statement of intention is not timely filed, the trustee must file a notice of that fact with the court, and serve the notice on the debtor and debtor’s attorney. The clerk will enter an order dismissing the case, unless, consistent with Fed. R. Bankr. P. 2002, an objection to the trustee’s notice is filed within 20 days after it is served. The amendment serves to set a time in which an objection must be filed.

The amendment deletes the statement that an order of dismissal is stayed by filing an objection, because under the changed procedure there is no order of dismissal to stay.

The proposed amendment also increases the time in which a hearing on an objection must be held to avoid dismissal by ten days. Under the proposed rule, a case will be dismissed if a hearing is not held within 40 days from the filing of the objection, as opposed to 30 days under the current rule.

~~In Chapter 7 cases where~~ The court may dismiss an individual debtor's schedules include consumer debts which are secured by property of the estate, the debtor must comply with 11 U.S.C. § 521(2) debtor's Chapter 7 case if the debtor fails to comply with § 521(2) of the Code and Fed. R. Bankr. P. 1007(b)(32). If the debtor fails to does not file a statement of intention as required by 11 U.S.C. § 521(2) and Fed. R. Bankr. P. 1007(b)(3) by the first date set for the meeting of creditors pursuant to

~~Fed. R. Bankr. P. 2003(a), the clerk shall prepare and enter an order of dismissal on the tenth day after the meeting unless on or before such date a party in interest files a written objection to such dismissal.~~ ~~timely,~~ the trustee must file a notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection is not filed within 20 days after service of the notice, the clerk must enter an order dismissing the case. ~~Upon the timely filing of an objection, the dismissal shall be stayed.~~ The objecting party ~~shall~~ **must** set a hearing date and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). ~~Unless the court orders otherwise,~~ ~~if no~~ a hearing on the objection is ~~not~~ held within ~~thirty~~ **40** days after the objection is filed, the clerk ~~shall~~ **must** enter the order of dismissal, **unless the court orders otherwise.**

RULE 1014-21

~~VENUE~~-CHANGE OF VENUE

L. R. 1014-1:

Title: The rule is renumbered from Rule “1014-2” to “1014-1” to correct an error in the current rules. The title is also changed for stylistic reasons.

Text: The current rule, dealing with intra-district change of venue motions, is now subsection (a), with some stylistic changes.

Subsection (b) is new. It serves to direct parties to the law applicable to change of venue motions when the motion seeks to change venue to another district.

~~The court may transfer venue of a case or adversary proceeding from one division of the court to another, in~~

(a) **Within the District.** In the interest of justice or for the convenience of the parties, the court may change venue of a case or proceeding from one division of the court to another. A motion for intra-district transfer is governed by Fed. R. Bankr. P. 9014 and Local Rule 9013-1.

(b) **To Another District.** ~~A motion for change of venue of a case or proceeding to another district is governed by DUCivR 83-7.1(a) and (c) and Fed. R. Bankr. P. 1014.~~ For procedures to change venue of a case or proceeding to another district, see DUCivR 83-7.1(a) and (c) and Fed. R. Bankr. P. 1014.

RULE 1015-1

JOINT ADMINISTRATION/CONSOLIDATION

L. R. 1015-1:

Title: The title has not changed.

Text: Stylistic changes only.

€A motion for consolidation or joint administration of cases may be ~~moved~~brought before any judge assigned to one of the ~~subject~~ cases. If ~~such a~~the motion is granted, ~~consolidation will be made with the cases~~ will be consolidated into or jointly administered under the case having the lowest docket number ~~and shall be. The judge~~ assigned to the ~~judge to whom such case has been assigned under Local Rule 1073-1~~ case with the lowest number will retain the assignment for the consolidated or jointly administered case.

RULE 1020-1

CHAPTER 11 SMALL BUSINESS CASES ~~-GENERAL~~

L. R. 1020-1:

Title: The title has been amended for stylistic reasons.

Text:

- (a) Subsection (a) of the rule is amended to clarify that an election may be made either by filing a statement of election under Fed. R. Bankr. P. 1020, or by marking the appropriate box on Official Form 1. Additionally, current subsection (a) contains a time in which to file a statement of election. This deadline has been deleted because the time to file an election is governed by Fed. R. Bankr. P. 1020.

Under the proposed amendments, there will be no subsection (a), but rather the contents of current subsection (a) will exist without a subsection designation or title. This amendment is for stylistic reasons in light of the deletion of subsection (b).

- (b) Subsection (b) has been deleted because it is duplicative of Fed. R. Bankr. P. 3017.

(a) Election to be Considered a Small Business in a Chapter 11 Reorganization Case.

In a Chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election **in accordance with Fed. R. Bank. P. 1020, or by marking the appropriate box on Official Form 1.** ~~no later than the commencement of the meeting of creditors pursuant to 11 U.S.C. § 341(a) or by a later date as the court, for cause, may fix.~~

(b) Approval of Disclosure Statement.

- ~~(1) Conditional Approval. If the debtor is a small business and has made a timely~~

~~election to be considered a small business in a Chapter 11 case, the court may, on application of the plan proponent, conditionally approve a disclosure statement filed in accordance with Fed. R. Bankr. P. 3016. On or before conditional approval of the disclosure statement, the court shall:~~

~~(A) — fix a time within which the holders of claims and interests may accept or reject the plan;~~

~~(B) — fix a time for filing objections to the disclosure statement;~~

~~(C) — fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and~~

~~(D) — fix a date for the hearing on confirmation.~~

~~(2) — Application of Fed. R. Bankr. P. 3017. If the disclosure statement is conditionally approved, Fed. R. Bankr. P. 3017(a),(b),(c), and (e) do not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of applying Fed. R. Bankr. P. 3017(d).~~

~~(3) — Objections and Hearing on Final Approval. Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Fed. R. Bankr. P. 2002(b) and may be combined with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed, transmitted to the United States trustee, and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code and any other entity designated by the court at any time before final approval of the disclosure statement or by an earlier date as the court may fix. If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or~~

~~combined with the hearing on confirmation of the plan.~~

RULE 1073-1

ASSIGNMENT OF CASES

L. R. 1073-1:

Title: The title has not changed.

Text:

- (a) Subsection (a) has been modified to delete the requirement of a specific method of random selection of Chapter 7 and 13 cases, allowing the court more flexibility in light of increasing case loads and the utilization of electronic filing software.
- (b) Subsection (b) has been modified to eliminate the restriction that only a judge from the Tenth Circuit be appointed if all local judges recuse themselves or are disqualified. All other changes are stylistic.
- (c) Stylistic changes have been made to subsection (c).

The assignment of cases to the judges of the court is the responsibility of the Chief Judge of the court and will, unless otherwise modified, proceed ~~according to the following provisions~~ as follows:

(a) **Random Selection Case Assignment System.** ~~All~~ Case assignments ~~are made on a nonpublic rotating calendar established and monitored by the clerk, shall be by chapter with the court rotating chapter assignments every six months,~~ except that a blind draw will occur in all Chapter 11 cases, involuntary cases, and in Chapter 7 cases with 100 creditors or more.

(b) **Judicial Recusal or Disqualification.** ~~In the event of~~ a judicial recusal or disqualification ~~occurs,~~ another judge will be assigned to the case ~~through a~~ by random selection. If all judges recuse themselves or are disqualified, the Chief Judge will request the Chief Judge of the United States Court of Appeals for the Tenth Circuit to assign a bankruptcy judge from another district ~~within the~~

~~Tenth Circuit~~ to the case.

(c) **Unavailability of Assigned Judge.** ~~In~~A party may request relief from any judge of the event ~~an~~court ~~if the~~ assigned judge is unavailable ~~to consider a matter, application for consideration may be made to any available judge of the court.~~

RULE 2002-1

NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES

L. R. 2002-1:

Title: The title has not changed.

Text:

- (a) Current subsection (a) has not changed.
- (b) Proposed subsection (b) has stylistic changes to shorten the rule.
- (c) The first sentence of subsection (c) is deleted as unnecessary. The remaining changes to subsection (c) are stylistic.
- (d) Current subsection (d) has been moved to new Local Rule 1007-1 for the reasons stated in the annotation to that rule.
- (e) Current subsection (e) will become subsection (d). The amended rule eliminates the return mail procedures because return mail is now forwarded to the debtor's attorney. A new provision has been added to the proposed rule requiring the debtor to update the mailing matrix in the event that any notices served by the court are returned.
- (f) Current subsection (f) has been deleted as unnecessary.
- (g) Current subsection (g) has been deleted as unnecessary.
- (h) Current subsection (h) will become subsection (e). The changes to new subsection (e) are stylistic.

- (i) Current subsection (i) will become subsection (f). All changes to new subsection (f) are stylistic.
- (j) Current subsection (j) will become subsection (g). The amended rule updates certain addresses, changes the name of the Department of Employment Security to the Department of Workforce Services, and clarifies that any party providing notice, not just the debtor in possession or trustee, is responsible for obtaining any new addresses.

(a) **Scope of Rule.** This rule governs notice of proposed actions, motions, applications, and other requests for relief in bankruptcy cases.

(b) **Form of Notice.** ~~The~~ A notice required by this rule ~~to parties in interest shall~~ may include a statement that ~~such action may be taken or such~~ the relief ~~requested~~ may be granted without a hearing unless an objection is ~~filed in a timely manner. Unless the motion accompanies the notice, the notice required by this rule shall also include a statement of the action intended or relief sought, and a brief explanation of the basis for such intended action or relief.~~ ~~timely filed. A notice not accompanied by a motion must state the relief requested and explain the basis for the relief.~~

(c) **Notice of Hearings** **Service of Notice.** ~~If a court order is requested, even in the absence of a response, the movant shall file a motion or application setting forth the relief requested.~~ The movant ~~shall~~ must serve the notice of hearing ~~to~~ on all parties as required by the Federal Rules of Bankruptcy Procedure.

(d) **Debtor's Duty to Provide Correct Addresses.** ~~In connection with filing the petition, the debtor is responsible for providing the court with current and accurate addresses of parties in interest including zip codes.~~

(e) **Returned Notices.** ~~When notices of the first meeting of creditors under 11 U.S.C. § 341 and notices to file claims are returned to the court as undeliverable, as having an incorrect address, or for any other reason, the clerk's office shall indicate the return on the address list maintained with the court. If a notice of meeting of creditors pursuant to 11 U.S.C. § 341 addressed to the debtor is returned, the clerk's office shall notify the debtor's attorney of such return. The debtor's attorney shall promptly notify the clerk's office of the debtor's correct address.~~ If any notices delivered by the court are returned, the debtor should update the mailing matrix as necessary to reflect the current addresses of parties in interest.

(f) **Disputes Regarding Adequate Notice.** ~~A party in interest may object to a motion on the ground that notice under this rule was defective, and the court may determine the parties in interest entitled to notice and whether the notice was adequate.~~

(g) **Modification by the Court.** ~~The court may modify the times and procedures set forth in this rule and may direct the clerk to issue the required notices.~~

(h) **Notice of Compensation in Chapter 7 Case.** Before ~~the filing of~~ a final report in a Chapter 7 case, the trustee ~~shall~~ must notify any entity who, to the knowledge of the trustee, may be entitled to compensation or reimbursement under ~~11 U.S.C. § 330~~ of the Code. ~~Such~~ The entity may, within ~~ten~~ 10 days of service of the notice, file an application ~~pursuant to 11 U.S.C. § 330~~ for compensation and reimbursement of expenses.

(i) **Notice of Entry of Confirmation Order.** The plan proponent ~~is responsible for~~

giving must provide notice regarding of the entry of an order confirming a Chapter 9, 11 or 12 plan pursuant to under Fed. R. Bankr. P. 2002(f)(7).

(jg) **Notice to Certain Governmental Entities.** In addition to all other notice requirements of notice found in the Federal Rules of Bankruptcy Procedure, when notices are required to be sent to the Internal Revenue Service, the Utah State Tax Commission, or the Utah Department of Employment Security Workforce Services, notices shall should be mailed or delivered to the following addresses:

~~District Director~~

Internal Revenue Service
Attn: Special Procedures, Mail Stop 5021
50 South 200 East
Salt Lake City, Utah 84111

~~Collection~~ Taxpayer Service Division

Utah State Tax Commission
Attn: Bankruptcy Unit
210 North 1950 West
Salt Lake City, Utah 84134-3340

Utah Department of ~~Employment Security~~ Workforce Services

Collections - Bankruptcy
140 East 300 South
P.O. Box 45288
Salt Lake City, Utah 84145-0288

The above addresses are correct as of the effective date that of these Local Rules became effective. The debtor in possession or the trustee party providing notice is responsible for obtaining any new addresses.

RULE 2003-1

MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS

(d) Current subsection (b) has been moved to subsection (d). The changes to proposed subsection (d) are stylistic.

(e) Current subsection (c) has been moved to subsection (e). The changes to proposed subsection (e) are stylistic.

L. R. 2003-1:

(f) Current subsection (d) has been moved to subsection (f). The changes to proposed subsection (f) are stylistic.

Title: The title has not changed.

Text:

(a) Current subsection (a) requires the clerk to dismiss a case if a debtor or debtor's attorney fails to attend a § 341 meeting. The clerk is required to enter the order of dismissal on the tenth day following the date of nonappearance, unless an objection is filed prior to that time. If an objection is timely filed, the order of dismissal is stayed. A hearing on the objection must be held within 30 days of the filing of the objection to avoid dismissal of the case.

The proposed rule makes several changes. First, it eliminates dismissal of certain converted cases because of the debtor or attorney's failure to appear at a § 341 meeting. Second, it states the trustee must file a notice of noncompliance and serve it on the debtor and debtor's attorney. Consistent with Fed. R. Bankr. P. 2002, the service of this notice triggers a 20-day period, as opposed to a 10-day period, in which the debtor may object to the dismissal of the case. The statement that the dismissal is stayed if an objection is filed is eliminated, because the clerk no longer enters an order of dismissal, unless no objection is filed. Third, the rule is modified to require that in a Chapter 7 case, any objection to dismissal must also move for an extension of the time fixed for filing a complaint under §§ 523 or 727 of the Code. This modification is made to prevent a discharge from issuing prior to the time a § 341 meeting is actually held. Fourth, the amended rule extends the time during which the hearing on the objection to the trustee's notice must be held from 30 days to 40 days. Finally, various stylistic changes have been made.

(b) Current subsection (b) has been moved to subsection (c), and a new subsection (b) is proposed, authorizing telephonic appearance at § 341 meetings if extenuating circumstances exist. Procedures related to obtaining permission to appear telephonically at a § 341 meeting are detailed. The debtor is responsible for costs.

(c) Subsection (c) is new. It requires a debtor to provide a picture identification and proof of Social Security number to the trustee at the § 341 meeting.

(a) **Attendance.** The court may dismiss a voluntary case, except a case that has been converted from a Chapter 11 case to a Chapter 7 case or from a Chapter 7 case to a Chapter 13 case, if ~~the debtor and or the debtor's attorney are required~~ fails to appear at ~~any properly~~ the scheduled or continued meeting of creditors ~~required under § 341 of the Code. Failure of a~~ If the debtor or ~~a debtor's attorney to appear shall result in a voluntary case being dismissed~~ the debtor's attorney fails to appear, the trustee must file a notice of failure to comply and serve it on the debtor and the debtor's attorney. If an objection to the trustee's notice is not filed within 20 days after service of the notice, the clerk must enter an order dismissing the case. In a joint case where only ~~one~~ 1 spouse appears, the case ~~shall~~ will be bifurcated and the appropriate dismissal entered. ~~The clerk shall prepare and enter an order of dismissal on the tenth day following the date of the failure to appear unless on or before such date a party in interest files a written objection to such dismissal. Upon the timely filing of and objection the dismissal shall be stayed.~~ In a Chapter 7 case, the objection must also move for an extension of the time fixed under Fed. R. Bankr. P. 4007(c) and 4004(a) for filing a complaint under §§ 523(c) and 727 of the Code. The objecting party ~~shall~~ must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). ~~Unless the court orders otherwise, if no~~ a hearing on the objection is ~~not~~ held within ~~thirty~~ 40 days after the objection is filed, the clerk ~~shall~~ must enter the order of dismissal, ~~unless the court orders otherwise.~~

(b) **Telephonic Appearance at Meeting of Creditors.** Under extenuating circumstances which prevent a debtor from appearing in person, a debtor may file a motion seeking permission to appear by telephone at a creditors' meeting required under § 341 of the Code. Extenuating circumstances may

include military service, incapacitating condition, or incarceration. The motion must be filed and served on the trustee and United States trustee no later than 10 days prior to the scheduled meeting, and may be ruled upon without a hearing. If the motion is granted, the debtor must also serve a copy of the order allowing a telephonic appearance on the trustee and the United States trustee. The debtor must contact the trustee to determine the time, date and location for the telephonic appearance. The debtor is responsible for any costs associated with conducting a telephonic appearance.

(c) **Debtor Identification.** An individual debtor must provide a picture identification card and proof of the debtor's Social Security number to the Trustee at the § 341 meeting.

(b) **Information Requested by the Trustee or by the United States Trustee at the Meeting of Creditors.** ~~Upon written request of the trustee or the United States trustee or upon request of record by the trustee or the United States trustee at the meeting of creditors, t~~The debtor ~~shall provide~~ **must produce** the following materials ~~no later than 10 days after a written request by the trustee or United States trustee:~~

- (1) bank statements, canceled checks, and checkbooks; and
- (2) any other documents, recorded information, or other information reasonably necessary for the effective administration of the estate.

(c) **Costs of Meeting Facilities.** ~~Where~~**If** the circumstances of a particular case require that the meeting of creditors be held somewhere other than the usual facilities ~~used for the meeting of creditors,~~ the estate of the debtor ~~shall~~**will** be responsible for the rent and other appropriate costs associated with conducting the meeting in an alternative facility.

(d) **Notice of ~~Continued or Postponed~~ Rescheduled Meetings of Creditors.** ~~When~~**If**

the initial meeting of creditors is ~~continued or postponed and not commenced until a later date, the clerk shall rescheduled, the clerk must~~ give notice of the new date ~~and time~~ of the meeting unless otherwise directed by the court.

RULE 2004-1

~~DEPOSITIONS AND~~ EXAMINATIONS UNDER RULE 2004

L. R. 2004-1:

Title: The title of the rule has been changed to delete a reference to “depositions”

Text: The current rule states three circumstances under which the clerk may enter an order granting a motion for an examination under Fed. R. Bankr. P. 2004 without notice and hearing: (1) if the examination date is not less than 10 days after the date of the motion, (2) the movant represents that relevant parties will receive at least 10 days notice of the examination, or (3) there is a written stipulation of the relevant parties agreeing to a date on shorter notice. In reality, (1) and (2) are one grounds for granting a motion, because the relevant parties must receive at least 10 days notice of the examination date.

The proposed amendment recognizes this fact, and combines grounds (1) and (2), resulting in 2 circumstances for the granting of a 2004 motion without notice and hearing.

The proposed amendment expands the 10-day notice period to 15 days. It also deletes any reference to a time period in the event that a written stipulation is made. The clerk may now grant a motion for a 2004 examination on any notice time provided the parties have so stipulated.

All other changes to the proposed rule are stylistic.

~~Orders granting motions for examination~~ In either of the following circumstances the clerk may enter an order granting a motion under Fed. R. Bankr. P. 2004 ~~may be entered by the clerk~~ without prior notice or hearing ~~if: (1) the examination is on a date not less than ten days after the date of the motion; or (2):~~

- (1) if the movant represents that the ~~debtor, the trustee, if any,~~ party to be examined will receive not less than 15 days written notice of the examination; or
- (2) if the movant and the party to be examined ~~whose examination is requested will receive not~~

~~less than ten days written notice of~~ have stipulated in writing to the examination. ~~or (3) the~~
~~movant provides a written stipulation that the debtor, the trustee, if any, and the party~~
~~whose examination is requested stipulated to a date on shorter notice.~~

~~RULE 2007.1-1~~

~~TRUSTEES AND EXAMINERS (Ch. 11)~~

L. R. 2007.1-1:

Title: The title has been deleted.

Text: The rule is deleted as unnecessary because it duplicates Fed. R. Bankr. P. 2007 and 2007.1.

(a) **~~Request for an Election of Trustee in a Chapter 11 Case.~~** A request to convene a meeting of creditors for the purpose of electing a trustee in a Chapter 11 case shall be filed and transmitted to the United States trustee in accordance with Fed. R. Bankr. P. 5005 within the time prescribed by 11 U.S.C. § 1104(b). Pending court approval of the person elected, a person appointed under 11 U.S.C. § 1104(d) shall serve as trustee.

(b) **~~Manner of Election and Notice.~~** An election of a trustee under 11 U.S.C. § 1104(b) shall be conducted in the manner provided in Fed. R. Bankr. P. 2003(b)(3) and 2006. Notice of the meeting of creditors convened under 11 U.S.C. § 1104(b) shall be given in the manner and within the time provided for notices under Fed. R. Bankr. P. 2002(a). A proxy for the purpose of voting in the election may be solicited by a committee appointed under 11 U.S.C. § 1102 and by any other party entitled to solicit a proxy under Fed. R. Bankr. P. 2006.

(c) **~~Application for Approval of Appointment and Resolution of Disputes.~~** If it is not necessary to resolve a dispute regarding the election of the trustee in a Chapter 11 case or if all disputes have been resolved by the court, the United States trustee shall promptly appoint the person elected to be

~~the trustee and file an application for approval of the appointment of the elected person under Fed. R. Bankr. P. 2007.1(b), except that the application does not have to contain names of parties in interest with whom the United States trustee has consulted. If it is necessary to resolve a dispute regarding the election of a Chapter 11 trustee, the United States trustee shall promptly file a report informing the court of the dispute. If no motion for the resolution of the dispute is filed within ten days after the date of the creditors' meeting called under 11 U.S.C. § 1104(b), a person appointed by the United States trustee in accordance with 11 U.S.C. § 1104(d) and approved in accordance with Fed. R. Bankr. P. 2007.1(b) shall serve as the Chapter 11 trustee.~~

~~RULE 2014-1~~

~~EMPLOYMENT OF PROFESSIONALS~~

L. R. 2014-1:

Title: The title has been deleted.

Text: The rule has been modified and moved to Local Rule 2091-1(a).

~~Unless the court orders otherwise, when an attorney files a bankruptcy case or an adversary proceeding under any chapter of the Bankruptcy Code on behalf of a debtor, the attorney will be deemed to have undertaken to~~ (a) Scope of Representation. A debtor's attorney must represent the debtor in all aspects of the case, ~~including at the meeting of creditors, or~~ adversary proceedings, ~~including proceedings or~~ motions filed against the debtor and post-confirmation matters. ~~Attorney-client contracts or agreements may not modify the effect or intent of this rule. Any violation of this rule may be addressed by denying fees, ordering the refund of fees, or otherwise disciplining the attorney. Withdrawal by an attorney from any aspect of a case or adversary proceeding is governed by Local Rule 2091-1. This requirement cannot be modified by agreement. The court may deny fees or otherwise discipline an attorney for violation of this rule.~~

RULE 2081-1 15-1

CHAPTER 11 - GENERAL

L. R. 2081-1:

Title: The title has not changed.

Text:

- (a) Subsection (a) is new. It requires certain documents to be provided to the United States trustee within 20 days of filing, unless the court orders otherwise.
- (b) Current subsection(a) has been redesignated as subsection (b) and stylistic changes have been made to current rule 2081-1(a).
- (c) Current subsection (b) has been redesignated as subsection (c) and stylistic changes have been made to current rule 2081-1(b).

(a) Initial Financial Reports and Other Documents. Not later than 20 days after filing a Chapter 11 petition, the Debtor must provide the United States trustee with an initial financial report in the form approved by the United States trustee, and evidence of any permits, licenses of operation, and any policies of insurance maintained by the Debtor, unless the Court orders otherwise.

(ab) Monthly Financial Reports. Not later than 15 days after the end of each month t The debtor in possession or trustee ~~shall~~ must file ~~monthly financial reports~~ with the court a monthly financial report in the form approved by the United States trustee and serve a copy upon ~~and with the United States trustee in the form prescribed by~~ the United States trustee. Each report ~~shall~~ must bear an original signature of either the debtor in possession or the trustee. ~~and shall be filed by the fifteenth day of the following~~

~~month~~. The duty to file ~~monthly~~ these reports terminates upon confirmation of a plan, or upon conversion or dismissal of the case.

(b)(c) Post-Confirmation Summary Report. ~~In accordance with 11 U.S.C. §§ 1106(a)(7) and 1107(a),~~ A reorganized debtors, trustees, or other entities responsible for consummation of a plan ~~shall~~ must file a one-time summary report within ~~ninety~~90 days after entry of a confirmation order which ~~shall~~ must include the following:

- (1) the dollar amounts of administrative expenses for fees for ~~counsel~~ the attorney for the debtor, attorney for the trustee, the trustee, other professionals, and out-of-pocket expenses;
 - (2) the dollar amounts of priority, secured and unsecured claims;
 - (3) the dollar amounts of plan payments to priority, secured, and unsecured creditors;
 - (4) the percentage dividend being paid to unsecured creditors without priority;
- and
- (5) the estimated date that a final decree will be entered.

Failure to comply with this subsection constitutes grounds for dismissal of the case.

RULE 2082-1

CHAPTER 12 - GENERAL

The proposed amendment also increases the time in which a hearing on an objection must be held to avoid dismissal by 10 days. Under the proposed rule, a case will be dismissed if a hearing is not held within 40 days from the filing of the objection, as opposed to 30 days under the current rule.

The rule now refers to § 1221 of the Code to set the time in which the debtor is required to file a plan. At this time, § 1221 provides for a 90 day time period and, therefore, the time period is not changed by the amendment.

~~Title: The title has not changed.~~
Title: All other changes to current subsection (b) are stylistic.

~~Text: Stylistic changes have been made to current subsection (c).~~
(c) Stylistic changes have been made to current subsection (c).

~~(a) Current rule 2082-1(a) does not contain a requirement that the monthly report bear the debtor's original signature. This requirement has been added to the proposed rule, and stylistic changes have been made.~~
(a) Stylistic changes have been made to current subsection (a).

~~(e) Current subsection (e) has been amended to give the court more discretion related to pre-confirmation administrative payments.~~
(e) Current subsection (e) has been amended to give the court more discretion related to pre-confirmation administrative payments.

~~(b) Current rule 2082-1(b) states that debtor is required to file a plan not later than 90 days after the entry of an order for relief. If the debtor fails to comply, the clerk is required to enter an order dismissing the case on the tenth day after this deadline, unless an objection is filed which stays the dismissal. A hearing on the objection must be held within 30 days of the filing of the objection, to prevent dismissal of the case.~~
(b) Current rule 2082-1(b) states that debtor is required to file a plan not later than 90 days after the entry of an order for relief. If the debtor fails to comply, the clerk is required to enter an order dismissing the case on the tenth day after this deadline, unless an objection is filed which stays the dismissal. A hearing on the objection must be held within 30 days of the filing of the objection, to prevent dismissal of the case.

The proposed amendment changes this procedure. If a plan is not timely filed, the trustee must file a notice of that fact with the court, and serve the notice on the debtor and debtor's attorney. The clerk will enter an order dismissing the case, unless an objection to the trustee's notice is filed within 20 days after it is served.

Consistent with Fed. R. Bankr. P. 2002, the debtor's time to respond to potential dismissal of its case has increased from 10 days to 20 days under the proposed rule.

The proposed amendment deletes the statement that an order of dismissal is stayed by filing an objection, because under the changed procedure there is no order of dismissal to stay.

(a) **Monthly Financial Reports.** ~~Not later than 15 days after the end of each month~~ ~~t~~The debtor ~~shall~~**must** file with the court a monthly financial report in the form approved by the United States trustee and serve a copy upon the Chapter 12 trustee. **Each report must bear an original signature of the debtor.** ~~Reports covering each calendar month are due on the fifteenth day of the following month.~~ The debtor's duty to file these reports terminates upon confirmation of ~~the~~ **a** plan, or upon conversion or dismissal of the case.

(b) **Filing of Chapter 12 Plan.** ~~Unless~~~~t~~The court ~~has ordered otherwise, the debtor shall file a plan not later than ninety days after the date of the order for relief.~~ **If may dismiss a Chapter 12 case if** the debtor fails to file a plan, ~~the clerk shall prepare and enter an order of dismissal without a hearing on the tenth day after the last date on which the debtor must file a plan under this rule unless, before the expiration of the tenth day, a party in interest files a written objection to the dismissal.~~ **within the time provided in § 1221 of the Code. If the debtor does not file a plan timely, the Chapter 12 trustee should file a notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection to the trustee's notice is not filed within 20 days after service of the notice, the clerk should enter an order.** ~~Upon the timely filing of an objection the dismissal shall be~~ **dismissing the case. If an objection is timely filed, the dismissal is stayed.** **The objecting party shall****must** set a hearing ~~date with the court~~ and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). ~~If~~ **no** hearing on the objection is ~~not~~ held within ~~thirty~~ **40** days ~~of~~**after** the ~~date the plan was to be~~ **objection is** filed, the clerk ~~shall~~**must** enter the order of dismissal, **unless the court orders otherwise.**

(c) **Payments.** Payments under a confirmed plan ~~are to~~**must** be paid by certified funds or

money orders made payable as directed to by the “Office of the Chapter 12 Trustee.” ~~Nothing shall prevent the debtor from making payments to the trustee in furtherance of a plan, nor the trustee from accepting such payments prior to confirmation.~~ The debtor may make and the trustee may accept payments in furtherance of a plan prior to confirmation. Such payments shall must be disbursed pursuant to under a confirmed plan or further order of this court, and shall may be subject to a charge for the trustee’s expenses upon conversion or; dismissal of the case, or confirmation of a plan the case.

(d) **Attorney’s Fees.** All Chapter 12 plans shall must contain a statement of attorney’s fees paid and to be paid.

(e) **Monthly Payments.** Beginning at the first meeting of creditors and continuing each month thereafter until the confirmation of the debtor’s Chapter 12 a plan, the debtor shall may be required to pay to the Chapter 12 trustee the actual and necessary expenses of the administration of the case as allowed by the court, or a minimum court-approved dollar amount to be fixed by the trustee, whichever is greater.

RULE 2083-1

CHAPTER 13 - GENERAL

L. R. 2083-1:

Title: The title has not changed.

Text:

- (a) Stylistic changes have been made to current subsection (a).
- (b) Current rule 2083-1(b) states that if the debtor fails to make payments, the clerk shall enter an order dismissing the case on the tenth day after the first date set for the meeting of creditors, unless an objection is filed within the 10-day period which stays the dismissal. A hearing on the objection must be held within 30 days of the filing of the objection, to prevent dismissal of the case.

The proposed amendment changes this procedure. If a payment is not made, the trustee must file a notice of that fact with the court, and serve the notice on the debtor and debtor's attorney. The clerk will enter an order dismissing the case, unless an objection to the trustee's notice is filed within 20 days after it is served.

Consistent with Fed. R. Bankr. P. 2002, the debtor's time to respond to potential dismissal of its case has increased from 10 days to 20 days under the proposed rule.

The proposed amendment deletes the statement that an order of dismissal is stayed by filing an objection, because under the changed procedure there is no order of dismissal to stay.

The proposed amendment also increases the time in which a hearing on an objection must be held to avoid dismissal by ten days. Under the proposed rule, a case will be dismissed if a hearing is not held within 40 days from the filing of the objection, as opposed to 30 days under the current rule.

All other changes to subsection (b) are stylistic.

- (c) Current subsection (c) was deleted as unnecessary because it does not add anything to proposed Local Rule 2003-1(c).
- (d) Current subsection (d) was deleted as unnecessary.
- (e) Current subsection (e) has been redesignated as subsection (c) in light of omission of subsection (c) and (d), deletes the reference to returning refund checks to debtor's counsel, and contains stylistic changes.
- (f) Current subsection (f) has been redesignated as subsection (d) in light of omission of subsection (c) and (d), and contains stylistic changes.
- (g) Current subsection (g) has been redesignated as subsection (e) in light of omission of subsection (c) and (d), and contains stylistic changes.
- (h) Current subsection (h) has been redesignated as subsection (f) in light of omission of subsection (c) and (d), and contains stylistic changes.

(a) **Chapter 13 Plan Payments.** Payments ~~pursuant to under~~ ~~11 U.S.C.~~ § 1326 ~~of the Code~~ ~~shall~~ **must** commence on the first date fixed by the court for the meeting of creditors, and ~~shall~~ **must** be made by certified funds or money order made payable as directed by the ~~standing Chapter 13~~ trustee.

(b) **Failure to Make Payments.** If a debtor fails to make the first payment required by subsection (a) of this ~~Rule~~ **rule**, ~~the clerk shall prepare and enter an order of dismissal without hearing on the tenth day following the first date set for the meeting of creditors pursuant to Fed. R. Bankr. P. 2003(a) unless on or before such date a party in interest files a written objection to such dismissal.~~ **the trustee must file a notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection is not filed within 20 days after service of the notice, the clerk must enter an order dismissing the case. Upon the**

~~timely filing of an objection the dismissal shall be stayed.~~ The objecting party ~~shall~~**must** set a hearing ~~date~~ and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, if ~~no~~**a** hearing on the objection is ~~not~~ held within ~~thirty~~**40** days after the objection is filed, the clerk ~~shall~~ **must** enter the order of dismissal.

(c) ~~Standing Chapter 13 Trustee's Administrative Directions.~~ At any time after the filing of a petition under Chapter 13, the standing Chapter 13 trustee may direct the debtor to perform those acts and furnish the information required of a debtor by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, or which will aid in the administration of the case or the performance of the duties required by 11 U.S.C. § 1302. If the debtor fails to follow such directions or furnish such information, the standing Chapter 13 trustee, by motion, and proper notice and hearing, may move the court for the imposition of such sanctions as allowed by law, including dismissal of the case.

(d) ~~Notice of Meeting of Creditors Pursuant to 11 U.S.C. § 341.~~ Pursuant to Fed. R. Bankr. P. 9007, notice of the date of the consent or contested confirmation hearings, notice that a case may be dismissed under certain circumstances set forth in these rules, or other pertinent notices may be included in the 341 meeting notice and shall be sufficient notice within the meaning of Fed. R. Bankr. P. 1017(a), 1017(d), and 2002, and whenever “sufficient notice” is required by law unless otherwise ordered by the court. The 341 notice in a Chapter 13 case may contain a notice to parties in interest that the case may be dismissed for the debtor's failure to comply with a standing Chapter 13 trustee's administrative directions, with a confirmation order, or with a confirmed plan if the standing Chapter 13 trustee files a motion to dismiss and a declaration of non-compliance.

(ec) ~~Post-petition~~**Postpetition** Child Support, Alimony, Maintenance Payments Deemed

Voluntary. Unless a Chapter 13 debtor on the petition date, or such later time as the court allows, files with the court, the ~~Chapter 13~~ trustee, and the requisite state office of recovery services a notice setting forth the debtor's intent to terminate post-petition child support, alimony, ~~or~~ maintenance payments or income withholding, the debtor will be deemed as of the date of the petition to have stipulated as follows: (1) that any child support, alimony, or maintenance obligation that matures post-petition, whether continuing or delinquent and whether paid directly by the debtor or collected by means of income withholding ~~pursuant to~~ ~~under~~ state law, is voluntarily made by the debtor ~~pursuant to~~ ~~under~~ the debtor's budget of post-petition expenses; and (2) that any collection of such obligations ~~shall~~~~will~~ not constitute grounds for compensatory, injunctive or punitive relief against the collecting party for any violation of the provisions of ~~11 U.S.C. § 362 of the Code~~. This rule does not apply to any child support, alimony, or maintenance obligation that matures and becomes delinquent post-petition and that the debtor and a state office of recovery services have agreed in writing will be treated as a pre-petition obligation included in the debtor's ~~Chapter 13~~ plan.

(fd) Eligibility Hearing related to 11 U.S.C. § 109(e). ~~Any A party must file and serve a motion by a party in interest to dismiss a Chapter 13 case asserting the debtor is ineligible for Chapter 13 relief under 11 U.S.C. § 109(e) must be filed with the court and served under § 109(e) of the Code not later than 30 days after the claims bar date. A hearing on the motion must be held no later than thirty days after the expiration of the bar date fixed for filing claims. The hearing on said motion must be scheduled, noticed, and held at least ten days prior to 10 days before~~ the date set for the plan confirmation hearing.

(ge) Distribution in Discontinued Pre-Confirmation Cases. ~~In the event of conversion if a case is converted or dismissed~~ prior to confirmation, the ~~standing Chapter 13~~ trustee is authorized to apply the debtor's plan payments ~~made prior to conversion or dismissal~~ to pay: (1) an allowed expense fee

to the standing Chapter 13 trustee; (2) adequate protection payments stipulated to by the parties or ordered by the court; (3) any allowed administrative expenses; and; (4) the balance of such funds will be paid by check made payable to ~~and sent to~~ the debtor(s) ~~and sent either to the debtor or to the debtor's counsel.~~

(hf) Consent Calendar. ~~Upon sufficient notice thereof to parties in interest, including the notice describe in subsection (d) of this rule,~~ A Chapter 13 cases may be set for hearing on the court's consent calendar; upon submission by the debtor to the ~~standing Chapter 13~~ trustee of such information necessary to enable the ~~standing Chapter 13~~ trustee to recommend to the court confirmation of the ~~Chapter 13~~ plan by consent. ~~Objecting creditors may attend, but debtors~~ Debtors and the debtors' ~~counsel~~ attorneys are excused from confirmation hearings set on the court's consent calendar. The court may strike a consent hearing if it appears that no bars to confirmation exist and an order confirming the plan should be entered. The hearing on a plan not confirmed ~~at the~~ by consent ~~hearing shall be~~ is continued to the date set for the contested confirmation hearing calendar set forth on the ~~341~~ notice of the meeting of creditors under § 341 of the Code, or such other date as the court may direct.

RULE 2090-1

ATTORNEYS - ADMISSION TO PRACTICE

L.R. 2090-1:

Title: The title has not changed.

Text: This rule, and new Local Rule 2090-2, were modified to conform with the District Court rules that govern admission of attorneys to practice before this court and attorney registration.

- (a) Subsection (a) has been amended to clarify that the bar of this court is defined by the District Court rules.
- (b) Current subsection (b) has been deleted as duplicative of the title to the rule and other parts of the rule. The last sentence of the rule has been moved to new Local Rule 9011-1.
- (c) Current subsection (c) has been redesignated as subsection (b) due to the deletion of current subsection (b). The title to this subsection and the text have been changed to eliminate the Latin phrase. The text has been modified to clarify that all appearances must comply with DUCivR 83-1.1(d)(1), and for other stylistic purposes.
- (d) Current subsection (d) has been redesignated as subsection (c) due to the deletion of current subsection (b), and stylistic changes have been made.
- (e) Current subsection (e) has been redesignated as subsection (f), and stylistic changes have been made.
- (f) Subsection (d) is new, relating to attorneys for the United States.
- (g) Subsection (e) is new and clarifies that parties appearing without an attorney must be familiar with and proceed in accordance with all applicable rules and statutes.
- (h) Subsection (f) is new, providing rules for the admission of students to practice similar to the District Court's rules.

(a) **Bar of the Court.** The bar of this court ~~shall~~ consists of ~~those~~ attorneys admitted to practice in the United States District Court for the District of Utah ~~under DUCivR 83-1.1(b) and (c).~~ ~~and who are members in good standing in this court.~~

(b) **Admission to Practice Required.** ~~Unless otherwise authorized by law, any attorney appearing on behalf of a party must be a member of the bar of this court or must have been admitted pro hac vice pursuant to subsection (c) of this rule. Any paper required to be signed by an attorney which is not signed by an attorney admitted to practice before this court may be stricken.~~

(c) **Other Permitted Appearances Admission Pro Hac Vice.** Attorneys who are not active members of the Utah State Bar but who are members in good standing of the bar of another state or of the bar of any federal court, may appear for the purpose of attending and participating in a meetings of creditors ~~under 11 U.S.C. § 341~~ without leave of the court. In all other matters, such attorneys may be admitted ~~pro hac vice in a case by order of the court.~~ Applicants must present a written or oral motion for admission ~~pro hac vice~~ made by an active member in good standing of the bar of this court. For non-resident applicants, unless otherwise ordered by ~~a judge of this court,~~ ~~such~~ the motion ~~shall~~ may be granted only if the applicant associates an active local member of the bar of this court with whom opposing ~~counsel attorneys~~ and the court may communicate regarding the case or proceeding and upon whom papers ~~shall~~ must be served. ~~All applicants must also comply with DUCivR 83-1.1(d)(1).~~

(d) **Participation of Associate a Local Counsel Attorney.** ~~Where~~ If an attorney ~~who has been~~ admitted to the bar of this court is a non-resident, he or she ~~shall~~ must associate a local attorney who ~~shall~~ must sign the first pleading filed and who ~~shall~~ must continue in the case or proceeding unless another

active local member of this court's bar is substituted or unless released by the court. If the non-resident attorney fails to respond to any order of the court, for appearance or otherwise, the associated local attorney ~~shall~~ will have the responsibility and full authority to act for and on behalf of the client in all ~~proceedings~~ matters in connection with the case or proceeding, including hearings, pretrial conferences, and trial.

(d) **Attorneys for the United States.** Attorneys representing the United States government or any agency thereof and who reside within this district are required to be admitted to this court's bar as set forth in DUCivR. 83-1.1(f).

(e) **Parties Appearing Without an Attorney.** Any party proceeding on its own behalf without an attorney will be expected to be familiar with and to proceed in accordance with the rules of practice and procedure of this court and with the appropriate federal rules and statutes that govern the action in which such party is involved.

(ef) **Standards of Professional Conduct.** All attorneys practicing before this court, whether admitted as members of the court's bar, ~~pro hac vice~~ admitted pursuant to subsection (b) of this rule, or otherwise permitted by the court, ~~shall be~~ are governed by and ~~shall~~ must comply with ~~the rules of practice adopted by this court~~ these Local Rules and, unless otherwise provided, with the Utah Rules of Professional Conduct, as revised and amended, and the decisions of this court interpreting those rules and standards.

(g) **Student Practice.** Any eligible law student who desires to enter an appearance in any case or proceeding must file the applicable forms similar to Appendix VIII, IX and X of the District Court Rules of Practice with this court, must be familiar with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and these Local Rules, and must comply with DUCivR 83-1.6 (b), (c), (d) and (e).

RULE 2090-2

ATTORNEYS - REGISTRATION

L. R. 2090-2:

Title: The title similar to DUCivR 83-1.2 has been added in this new rule.

Text: This rule is new. It has been added to eliminate any confusion as to whether the bar of this court must comply with the registration procedures set forth in DUCivR 83-1.2.

All members of the bar of this court are required to comply with DUCivR 83-1.2, and to certify they are familiar with these Local Rules.

RULE 2090-~~2~~-3

ATTORNEYS - DISCIPLINE AND DISBARMENT

L. R. 2090-3:

Title: Proposed rule 2090-3 is current rule 2090-2. It has been renumbered due to the addition of new proposed rule 2090-2.

Text: The rule no longer provides for referral of an attorney discipline matter to a state bar organization, and, instead, references the procedure set forth in DUCivR 83-1.5(h). The rule has also been modified to allow both the court *or* a trustee to refer appropriate matters related to attorney conduct to the United States Attorney's office under 18 U.S.C. § 3057. All other changes are stylistic.

~~The court,~~ ~~u~~Upon ~~a~~ motion ~~by~~ ~~of~~ a party ~~in interest~~ or on its own initiative, ~~the court~~ may impose sanctions on an attorney for violation of these Local Rules. Sanctions may include, but are not limited to, the assessment of costs, attorney's fees, fines, or any combination thereof, against an attorney or a party.

~~The court~~ A person may also ~~file a complaint under DUCivR 83-1.5(h).~~ ~~The court or a trustee may~~ refer ~~under 18 U.S.C. § 3057~~ any ~~appropriate~~ matter regarding an attorney's conduct ~~to a state bar organization~~ ~~or~~ to the United States Attorney's office for ~~appropriate~~ action.

RULE 2091-1

ATTORNEYS - **SCOPE OF REPRESENTATION**, WITHDRAWAL AND SUBSTITUTION

L.R. 2091-1:

Title: “Scope of representation” has been added to the title to reflect the addition of proposed subsection (a).

Text:

- (a) Proposed subsection (a) is new to this rule. Its content is a modified version of current rule 2014-1, which is deleted under the proposed rules. Proposed subsection (a) clarifies current rule 2014-1 by expressly including the meeting of creditors in the list of matters at which a debtor’s attorney must represent the debtor. All other changes to current rule 2014-1 are stylistic.
- (b) Current subsection (a) has been moved to subsection (b). The title has been changed to delete the reference to withdrawal and substitution prior to a scheduled trial date, because these procedures should apply at any time during the case or proceeding. Subsection (b)(2) clarifies that in an adversary proceeding, the appropriate pleading is an application rather than a motion. The remainder of the changes are stylistic.
- (c) Current subsection (b) has been moved to subsection (c), and stylistic changes have been made. The rule clarifies that the referenced endorsement applies to subsections (c)(1)(A) and (c)(1)(B). Also, the subtitle and text have been altered to make clear that the provisions apply to hearings scheduled before the court, as opposed to administrative hearings, and to trials.
- (d) Current subsection (c) has been moved to subsection (d), and stylistic changes have been made.
- (e) Current subsection (d) has been moved to subsection (e), and stylistic changes have been made.

(a) Scope of Representation. A debtor’s attorney must represent the debtor in all aspects of the case, including the meeting of creditors, adversary proceedings, motions filed against the debtor, and

post-confirmation matters. This requirement cannot be modified by agreement. The court may deny fees or otherwise discipline an attorney for violation of this rule.

(ab) **Withdrawal and Substitution Prior to Scheduling of Trial Date.** ~~No~~ An attorney ~~shall be permitted~~ must file a written application seeking an order to withdraw or be substituted as attorney of record in any ~~pending~~ case or proceeding ~~except by written application and by order of the court. Such application shall~~ The application must set forth the reasons therefor, together with the name, address, and telephone number of the client, as follows:

(1) **With Client's Consent.** ~~Where~~ If the ~~withdrawing~~ attorney has obtained the written consent of the client, ~~such~~ the consent ~~shall~~ must be submitted filed with the application and ~~shall~~ the application must be accompanied by a separate proposed written order ~~and~~. The papers may be presented to the court ex parte. The withdrawing attorney ~~shall~~ must give prompt notice of the entry of ~~such~~ the order to the client and to all other parties or their attorneys. ~~For~~ An attorneys representing ~~the United States or any agency thereof, it shall not be necessary for the client's signature to appear on the application provided that the client's consent to the withdrawal and substitution of counsel is acknowledged by counsel for all parties~~ a governmental unit is not required to obtain a client's signature to withdraw under this provision.

(2) **Without Client's Consent.** ~~Where~~ If the ~~withdrawing~~ attorney has not obtained the written consent of the client, the application ~~shall be in the form of a motion that shall~~ must be served upon the client and all other parties or their attorneys. The ~~application motion shall~~ must be accompanied by a statement of the moving attorney certifying that:

(A) the client has been notified in writing of the status of the case or

proceeding, including the dates and times of any scheduled court proceedings, pending compliance with any existing court orders, and the possibility of sanctions; or

(B) the client cannot be located or for whatever other reason cannot be notified of the pendency of the ~~motion~~ application and the status of the case or proceeding.

(bc) Withdrawal and Substitution After Hearing Before the Court or Trial Date is

Scheduled. ~~No~~An attorney ~~of record shall be permitted to~~may not withdraw after a hearing before the court has been scheduled or trial date has been set in a case or proceeding ~~has been set for trial~~, unless:

(1) the application includes an endorsement that is signed

(A) by a substituting attorney indicating that such attorney has been advised of the hearing or trial date and will be prepared to proceed with hearing or trial; and

(2) (B) ~~the application includes an endorsement signed~~ by the client indicating that the client is advised of the time and date and will be prepared for the hearing or trial; or

(3) the court is otherwise satisfied, for good cause shown, that the attorney should be permitted to withdraw.

(cd) Notification of Substituted Counsel Attorney. ~~Where counsel is to be substituted,~~
~~the~~An application ~~for substitution~~to substitute attorney must state the address, telephone number, and, where applicable, Utah State Bar identification number of the substituting counsel attorney.

(de) Responsibilities of Party upon Removal. Whenever an attorney withdraws, dies,

is removed or suspended, or for any other reason ceases to act as attorney of record, the party represented by such attorney must notify the clerk of the appointment of another attorney or of his or her decision to appear ~~pro-se~~without an attorney within ~~twenty~~20 days or before any further court proceedings are conducted. If substituting ~~counsel~~another attorney, the party also must provide the clerk with the current telephone number, address, and, where applicable, Utah State Bar identification number of ~~the~~ substituting ~~counsel~~attorney. If the party is proceeding ~~pro-se~~without an attorney, the party ~~shall~~must provide ~~the~~ party's address and telephone number to the clerk.

RULE 30013-1

~~CLAIMS AND EQUITY SECURITY INTERESTS - GENERAL BAR~~

DATE FOR FILING PROOF OF CLAIM OR INTEREST IN CHAPTER 11 CASES

L. R. 3003-1:

Title: This rule was previously numbered 3001-1 and has been renumbered because Fed. R. Bankr. P. 3003, not 3001, deals with the filing of proofs of claim or interest in Chapter 11 cases. The title has been changed to accurately reflect the content of the renumbered rule.

Text:

- (a) Current subsection (a) to rule 3001-1 has been amended to shorten the time to file a proof of claim or interest in a Chapter 11 case from 180 days to 90 days for non-governmental unit creditors. Governmental units continue to have 180 days to file a proof of claim or interest. These changes make the rule for Chapter 11 cases conform to Fed. R. Bankr. P. 3002(c), which applies in cases under Chapter 7, 12 and 13 of the Code.
- (b) Stylistic changes have been made to subsection (b).

(a) **Bar Date in Chapter 11 Cases.** ~~Unless otherwise ordered by the court, the bar date for filing proofs of claim in a Chapter 11 bankruptcy case shall be 180,~~ a proof of claim or interest is timely filed if it is filed not later than 90 days after the ~~date of the order for relief.~~ first date set for the meeting of creditors under § 341 of the Code, or, if filed by a governmental unit, not later than 180 days after the date of the order for relief.

(b) **Notification of Bar Date in Chapter 11 Cases.** Unless otherwise ordered by the court, the clerk's office ~~shall~~ should state the bar dates for filing proofs of claim or interest on the notice entitled

“Notice of Commencement of Case under the Bankruptcy Code, Meeting of Creditors, and Fixing of Dates” issued in Chapter 11 cases.

RULE 3007-1

OBJECTIONS TO CLAIMS

L. R. 3007-1:

Title: The title to the rule is new.

Text: This rule is new. It serves to supplement the procedure for claim objections set forth in Fed. R. Bankr. P. 3007.

- (a) Subsection (a) states that notice to the claimant of an objection must be given in accordance with Fed. R. Bankr. P. 3007, and that the objecting party should use Official Form 20B.
- (b) Subsection (b) states that 30 days is allowed for a claimant to respond to a claim objection. If a response is filed, the court will conduct an evidentiary hearing. Otherwise, the court may sustain the objection without a hearing.

(a) **Notice of Objection to Claim.** A party objecting to a claim must provide notice to the claimant in accordance with Fed. R. Bankr. P. 3007 and Official Form 20B.

(b) **Response to Objection to Claim.** A response to an objection to a claim must be filed and served not later than 30 days after service of the objection. The court will conduct an evidentiary hearing if a response is timely filed. If a response is not timely filed, the court may sustain the objection without a hearing.

RULE 3022-1

FINAL REPORT/DECREE (Ch. 11)

L. R. 3022-1:

Title: The title has not changed.

Text: This rule has been amended to state that a Chapter 11 plan should set a date not later than 1 year after the entry of an order confirming the plan for entry of a final decree. Not later than 30 days before the date set in the plan, the reorganized debtor is responsible for obtaining a hearing date on and serving parties with a motion for final decree. The balance of the changes are stylistic.

A ~~plan of reorganization shall set a date certain upon~~ Chapter 11 plan should set a date, not later than 1 year after the entry of the order confirming the plan, prior to which a final decree closing the bankruptcy case ~~shall~~ will be entered under ~~11 U.S.C.~~ § 350 of the Code and Fed. R. Bankr. P. 3022. ~~On or~~ Not later than 30 days before such date, the reorganized debtor ~~shall submit to the court~~ should file, serve upon all interested parties and set for hearing, a motion ~~and order~~ for a final decree. The motion ~~shall~~ must set forth evidence of full administration for the purpose of entering the final decree. Any party in interest may object to ~~the~~ entry of the final decree prior to the date ~~certain as~~ set forth in the plan or prior to the expiration of ~~one~~ 1 year from the entry of the order confirming the plan, ~~whichever is earlier.~~ ~~Such~~ The objection ~~shall~~ must be served on the reorganized debtor and debtor's ~~counsel~~ attorney and must be set for a hearing. ~~In the event~~ If the plan of reorganization does not provide a date certain for entry of a final decree or if the reorganized debtor fails to timely ~~submit its~~ file a motion for a final decree, the final decree may be entered by the court, on or after ~~one~~ 1 year from entry of the order confirming the plan. The

~~proposed~~ decree ~~shall~~must specify that the case is closed upon entry of the final decree. ~~An extension~~
~~of~~The court may extend the time for entry of the final decree ~~may be made by motion and a hearing~~
~~scheduled with notice to all creditors and parties in interest~~upon motion and notice to all parties.

RULE 4001-1

RELIEF FROM AUTOMATIC STAY ~~RELIEF FROM~~

L. R. 4001-1:

Title: The title to this rule has been amended for stylistic reasons.

Text:

- (a) Subsection (a) has been amended to delete the Code references as unnecessary, to delete the parallel references to the Fed. R. Bankr. P., and to emphasize that the form of notice should be as set forth in Official Form 20A. Current subsection (a) has also been amended to change the date an objection is due from 15 days from the date of filing, to 15 days from the date of service.
- (b) Subsection (b) has been amended to reflect the change of a response date to 15 days from the date of service, rather than the date of filing. The other modifications require that the responding party admit or deny each and every allegation in the motion, or that the objection set forth the reason why the party cannot admit or deny the allegations.
- (c) Subsection (c) has been modified to include a provision requiring the movant to file an application or declaration stating that no objection has been filed or served when it submits its order. All other changes are stylistic.

(a) **Motions for Relief from Stay.** ~~If~~ A motion for relief from the automatic stay ~~is sought~~ under 11 U.S.C. §§ 362(d) and (e), 1201(c) or 1301(c), and Fed. R. Bankr. P. 4001(a) and 9014, the movant shall file with the court a motion and must be filed and served, with a notice of hearing and serve such pleadings, on the debtor, the debtor's attorney, the trustee, and if applicable, those parties designated in Fed. R. Bankr. P. 4001(a)(1), the if applicable, and any co-debtor and the co-debtor's attorney. The notice of hearing shall must substantially conform to Official Form 20A and state that written objections, if any, must be filed and served within fifteen not later than 15 days after service of the date that the motion

was filed with the court.

(b) **Objections to Motions for Relief from Stay.** ~~Where relief is sought under subsection (a) of this rule, any party in interest may file a written~~An objection to ~~the~~a motion ~~within fifteen days of the date that the motion was filed with the court. Objections which are not reduced to writing and filed with the court shall not be considered by the court. Written objections shall respond to each of the allegations of the motion that are disputed. Allegations that are not disputed in the written objection shall be deemed admitted for purposes of the hearing on the motion.~~for relief from stay must be filed and served not later than 15 days after service of the motion. The objection must admit or deny each allegation of the motion. An allegation is admitted for the purpose of the hearing on the motion unless the objecting party denies the allegation, or sets forth the reason why the party cannot admit or deny the allegation.

(c) **Hearings on Motions for Relief from Stay.** ~~In the event an objection to a motion covered by this rule is timely filed with t~~The court; ~~will conduct~~ an evidentiary hearing ~~will be conducted.~~
~~In the absence of a~~if an objection is timely filed. If an objection is not timely filed, the court may grant the relief requested ~~in the motion~~ without a hearing. A party submitting an order where no objection has been filed to the motion must submit an application or declaration stating that there has been no objection filed or served on the movant.

RULE 4001-2

FINANCING MOTIONS AND ORDERS

L. R. 4001-2:

Title: This rule is new. It sets forth procedures related to cash collateral and financing motions and orders.

Text:

- (a) New subsection (a) sets forth the procedure for filing a financing motion, including requiring that certain provisions requesting extraordinary relief be disclosed to the court.
- (b) New subsection (b) authorizes and sets forth the procedures for obtaining an interim financing order. Interim financing may not include those provisions set forth in L.R. 4001-2(a)(1)(A) through (G) absent extraordinary circumstances.
- (c) New subsection (c) sets forth the timing and procedures related to final financing orders.

(a) **Motions.** Except as provided herein and elsewhere in these Local Rules, all financing motions, including cash collateral and financing requests under §§ 363 and 364 of the Code (“Financing Motions”), must be heard by motion filed under Fed. R. Bankr. P. 2002, 4001 and 9014. (1)

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(A) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the prepetition secured creditors (i.e., clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law);

(B) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of a secured creditor's prepetition lien or debt or the waiver of claims against the secured creditor without giving parties in interest at least 75 days from the entry of the order and the creditors' committee, if formed, at least 60 days from the date of its formation to investigate such matters;

(C) Provisions that seek to waive, without notice, whatever rights the estate may have under § 552(b) of the Code;

(D) Provisions that grant immediately to the prepetition secured creditor liens on claims and causes of action arising under §§ 544, 545, 547, 548, and 549 of the Code;

(E) Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of that secured creditor's prepetition debt, other than as provided in § 552(b) of the Code;

(F) Provisions that provide disparate treatment for professionals retained by a creditors' committee from that provided for professionals retained by the debtor; and

(G) Provisions that prime any secured lien, without the consent of that lienor.

(2) Summary. All Financing Motions must also provide a summary of the essential terms of the proposed use of cash collateral and/or financing (e.g., the maximum borrowing available on a final basis, the interim borrowing limit, borrowing conditions, interest rate, maturity, events of default, use of funds limitations, and protections afforded under §§ 363 and 364 of the Code).

(b) **Interim Relief.** When Financing Motions are filed with the court on or shortly after the date of the entry of the order for relief, the court may grant interim relief pending review by interested parties of the proposed financing arrangements to avoid immediate and irreparable harm to the estate. In the absence of extraordinary circumstances, the court will not approve interim financing orders that include any of the provisions in subsection (a)(1)(A) through (a)(1)(G) of this rule.

(c) **Final Orders.** A final order on a motion under subsection (a) of this Local Rule will be entered only after notice and a hearing under Fed. R. Bankr. P. 4001 and Local Rule 2002-1. Ordinarily, the final hearing should be held at least 10 days following the organizational meeting of the creditors' committee contemplated by §1102 of the Code.

RULE 4002-~~2~~-1

ADDRESS OF DEBTOR

L. R. 4002-2:

Title: The rule has been renumbered from rule 4002-2 to 4002-1 to correct an error in the current rules.

Text: The amendment clarifies that the notification of a debtor's change of address must be filed and served upon the applicable parties until the case is closed or dismissed.

The debtor ~~shall immediately notify the court, debtor's counsel,~~ **must file and serve on** the United States trustee, and the trustee, if any, ~~in writing of~~ every change of the debtor's address until the case is closed **or dismissed**.

RULE 5001-2-1

CLERK - OFFICE LOCATION/HOURS

L. R. 5001-2:

Title: The rule has been renumbered from rule 5001-2 to 5001-1 to correct an error in the current rules.

Text:

- (a) Subsection (a) has been amended to delete the description of the use of the Ogden facility as unnecessary. The balance of the changes are stylistic.
- (b) Stylistic changes have been made to subsection (b).

(a) **Office of Record.** The court's office of record ~~of the court is located~~ in the Frank E. Moss United States Courthouse at 350 South Main Street, Salt Lake City, Utah 84101. The court also maintains an unstaffed clerk's office and a chambers/courtroom facility in the Federal Building, 324 25th Street, Ogden, Utah, ~~for occasional use by bankruptcy court judges for trials and other court activity.~~

(b) **Hours of Business.** Unless the court orders otherwise ~~ordered by the court, the office~~ of the clerk ~~shall be~~'s office is open to the public between the hours of 8:00 a.m. and 4:30 p.m. on all days except Saturdays, Sundays, and legal holidays as set forth below:

-New Year's Day, January 1

-Birthday of Martin Luther King, Jr. (Third Monday in January)

~~-Washington's Birth~~-Presidents' Day (Third Monday in February)

-Memorial Day (Last Monday in May)

-Independence Day, July 4

- Pioneer Day, July 24
- Labor Day (First Monday in September)
- Columbus Day (Second Monday in October)
- Veterans' Day, November 11
- Thanksgiving Day (Fourth Thursday in November)
- Christmas Day, December 25

RULE 5003-1

THE CLERK-~~S~~'S AUTHORITY

L.R. 5003-1:

Title: The title has been changed for stylistic reasons.

Text:

- (a) Subsection (a) has been substantively amended in two ways, and its subtitle has been amended to reflect the amendments.

First, subsection (a) now specifies that in addition to signing certain documents, the clerk may imprint the court's facsimile signature on certain documents.

Second, certain documents that may be signed or imprinted by the clerk have been modified, deleted, or added as follows: (1) orders on consent satisfying judgment in current subsection (a)(2) has been deleted; (2) the catch-all provision currently in subsection (a)(3) has been moved to subsection (a)(5) and stylistic changes have been made; (3) subsection (a)(2) has been added, and it includes part of current rule 5003-1(d) with stylistic changes; (4) subsection (a)(3) has been added, and it includes part of current rule 5003-1(d) with stylistic changes; (5) subsection (a)(4) has been added and is entirely new. A specific reference to a summons listed in current rule 5003-1(d) has been deleted from the list and is included under new rule 5003-1(a)(5).

All other changes to subsection (a) are stylistic.

- (b) Current subsection (b) has been deleted because the United States Trustee now approves the bonds this rule was meant to cover.

- (c) Current subsection (c) has been redesignated as subsection (b), and the “good cause” standard has been deleted. All other changes are stylistic.
- (d) Current subsection (d) has been deleted, because its text, with certain stylistic changes, has been integrated into amended subsection (a)(3)-(a)(6).

(a) **Orders, Judgments and Judgments Other Documents**. The clerk ~~is authorized to~~ may sign ~~or imprint the court’s facsimile signature~~ and enter the following ~~orders~~ without further ~~direction~~ ~~by~~ directive from the court:

- (1) ~~an~~ orders entering default for failure to plead or otherwise defend ~~as provided in~~ under Fed. R. Bankr. P. 7055 ~~(the clerk shall notify the court forthwith);~~
- ~~(2) orders on consent satisfying judgment; and~~
- (2) a subpoena for a party not represented by an attorney;
- (3) an order of discharge;
- (4) an order of dismissal as directed by Local Rules 2003-1(a), 2082-1(b), 2083-1(b) and 7041-1, or similar dismissal orders arising from the failure of the debtor to respond to a motion to dismiss; and
- ~~(35) any other orders which~~ order or document that does not require approval or order by the court under Fed. R. Civ. P. 77(c) ~~do not require allowance or order by the court.-~~

(b) ~~Approval of Undertakings, Bonds and Stipulations for Security.~~ The clerk is authorized to approve undertakings, bonds, and stipulations for security given in the form and amount prescribed by statute, by these Local Rules, or by order of the court where the same are executed by approved sureties, except those required by law to be approved by a judge.

(c) ~~Clerk's Action Reviewable.~~ Review of Clerk's Actions. The actions of the clerk under this rule may be reviewed, suspended, altered or rescinded by the court upon good cause shown. The court may review, suspend, alter or rescind the clerk's actions under this Local Rule.

(d) ~~Documents Signed or Imprinted by the Clerk.~~ The clerk is authorized to sign or, as appropriate, imprint the court's facsimile signature upon the following documents: subpoenas for pro se litigants; summonses; notices; discharges; and other documents as authorized by the court.

RULE 5003-2

COURT PAPERS - ~~REMOVAL OF~~

L. R. 5003-2:

Title: The title is amended because the proposed rule covers more than removal of court papers.

Text:

- (a) Subsection (a) has been modified to reference access to the court's records through the court's Internet site. The balance of the changes to subsection (a) are stylistic
- (b) Subsection (b) is new and has been added to indicate that any person may establish a PACER account and retrieve docket sheets and documents. Only Filing Users may file documents electronically.
- (c) Subsection (c) addresses procedures related to sealed or impounded documents, including the electronic submission of sealed or impounded records, and the electronic filing of motions and orders related to such documents.

(a) **Access.** The public records of the court are available for examination in the ~~clerk's~~ office ~~of the clerk~~ during the hours of business specified in Local Rule ~~5001-2~~5001-1. Public records may not be removed from the clerk's office by members of the bar or the public except by order of the court, but the clerk or the ~~clerk's~~ contract copy center will make and furnish copies of official public court records upon request and upon payment of the prescribed fees. **Access to public records may also be available through the court's Internet site.**

(b) **Electronic Filing System.** A person may access case information at the court's Internet

site by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets and documents. Only a Filing User may file documents electronically.

(b) **Sealed or Impounded Records Papers.** ~~Records or Exhibits~~ Papers ordered sealed or impounded by the court are not public records within the meaning of ~~this~~ these Local Rules. Papers ordered sealed must be filed conventionally, and not electronically, unless specifically authorized by the court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of papers under seal may be filed electronically unless prohibited by law. A copy of the order must be attached to the papers under seal and be delivered to the clerk.

RULE 5005-1

FILING ~~PAPERS~~ REQUIREMENTS

L.R. 5005-1:

Title: The title has been changed for stylistic reasons.

Text:

- (a) Subsection (a) has been amended to delete the reference to the 24-hour drop box. The amendment serves to allow papers to be filed after hours at any additional facility the court makes available in order to give maximum flexibility to include the use of electronic filing, the Fully Automated Remote Office, or any such device.
- (b) Current rule 5005-1(b)(1) states that if the debtor fails to file certain papers the clerk shall enter an order dismissing the case on the tenth day after the first date set for the meeting of creditors, unless an objection is filed within the 10-day period which stays the dismissal. A hearing on the objection must be held within 30 days of the filing of the objection, to prevent dismissal of the case.

The proposed amendment changes this procedure. First, the dismissal procedures will not apply in converted cases.

Second, if papers, including a list of creditors' names and addresses, and verified schedules and statement of financial affairs are not filed, the United States trustee or case trustee must file a Section 341 Meeting Report stating that fact with the court, and serve the Report on the debtor and debtor's attorney. The clerk will enter an order dismissing the case, unless an objection to the trustee's Report is filed within 20 days after it is served. Thus, consistent with Fed. R. Bankr. P. 2002, the debtor's time to respond to potential dismissal of its case has increased from 10 days to 20 days under the proposed rule.

The proposed amendment deletes the statement that an order of dismissal is stayed by filing an objection, because under the changed procedure there is no order of dismissal to stay.

Third, the proposed amendment increases the time in which a hearing on an objection must be held to avoid dismissal by ten days. Under the proposed rule, a case will be dismissed if a hearing is not held within 40 days from the filing of the objection, as opposed to 30 days under the current rule.

- (c) Subsection(b)(2) has been amended to reduce the number of copies of papers filed conventionally, and to excuse the requirement to supply copies if the papers are filed electronically.
- (d) Subsection (c) has been amended to delete provisions related to a debtor providing notice when the clerk's office's resources are exceeded, because this portion of the rule is unnecessary in light of the ability of the clerk's office to use the Bankruptcy Noticing Center for volume notices. All other changes to subsection (c) are stylistic.
- (e) Subsection (d) has been transferred from Local Rule 7003-1 and added here, with certain stylistic changes, because it related to cover sheets in the main case, and not in adversary proceedings.
- (f) Stylistic changes have been made to subsection (e).
- (g) Stylistic changes have been made to subsection (f).

(a) **Filing of Pleadings and Papers.** All pleadings, motions, proposed orders, and other papers required to be filed with the court ~~shall~~ should be filed with the clerk at the office of record in Salt Lake City, defined in Local Rule ~~5001-2(a)~~ 5001-1(a), during the hours of business set forth in Local Rule ~~5001-2(b)~~ 5001-1(b); provided, however, that when court is in session elsewhere in the district, ~~pleadings, motions, proposed orders, and other~~ such papers ~~required to be filed with the court~~ may be filed with the clerk or with the court at the place where court is being held. Pleadings and other case related papers may also be filed after business hours ~~in the court's 24-hour drop box facility located at the southeast entrance of the Frank E. Moss United States Courthouse, 350 South Main Street, Salt Lake City, Utah~~ at such other facility as the court makes available. In extraordinary circumstances, the court may permit the filing of such papers with a judge.

(b) Petitions, Schedules, Statements, and Plans.

(1) Dismissal of Voluntary Case for Late Filing of Certain Papers. The ~~failure to timely~~ ~~file schedules of assets and liabilities, a schedule of current income and expenditures~~ court may dismiss a voluntary case, except a case that has been converted from a Chapter 11 case to a Chapter 7 case or from a Chapter 7 case to a Chapter 13 case, if the debtor fails to file a list of creditors' names and addresses, ~~verified~~ schedules; ~~and a~~ statement of financial affairs, ~~a statement of executory contracts~~, a list of equity security holders, or a Chapter 13 plan within the time ~~limits~~ ~~fixed~~ ~~provided~~ by Fed. R. Bankr. P. 1007 and 3015 ~~may result in dismissal of a voluntary case.~~ The clerk shall prepare and enter an order of dismissal without hearing on the tenth day following the first date set for the meeting of creditors pursuant to Fed. R. Bankr. P. 2003(a) unless on or before such date a party in interest files a written objection to such dismissal. Upon the timely filing ~~of~~ If a debtor does not file the papers timely, the United States trustee or case trustee must file a Section 341 Meeting Report indicating the failure to comply and serve it on the debtor and debtor's attorney. If an objection to dismissal is not filed within 20 days after service of the Section 341 Meeting Report, the clerk must enter an order dismissing the case. If an objection ~~the~~ is timely filed, the dismissal ~~shall be~~ is stayed. The objecting party ~~shall~~ must set a hearing ~~date~~ and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, ~~the clerk must enter an order dismissing the case if~~ ~~no~~ a hearing on the objection is ~~not~~ held within ~~thirty~~ 40 days after the objection is filed, ~~the clerk shall enter the order of dismissal.~~

(2) Papers and Number of Copies Required. In accordance with Fed. R. Bankr. P. 1007, the ~~following~~ papers ~~listed below~~ ~~shall~~ must be filed in voluntary cases in addition to the ~~list~~

~~of creditors~~lists required by subsection (c) of this rule. Filing Users are excused from providing copies of papers filed electronically.

Chapter 7

Petition, original and ~~three~~2 copies;
Statement of financial affairs, original and ~~three~~2 copies;
Schedules A through J, original and ~~three~~2 copies;
Statement of intention (if required under ~~11 U.S.C.~~ § 521 of the Code), original and ~~two~~2 copies; and
Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, original and ~~two~~ 2 copies.

Chapter 11

Petition, original and ~~four~~3 copies;
Statement of financial affairs, original and ~~four~~3 copies;
Schedules A through J, original and ~~four~~3 copies;
List of creditors, excluding insiders, holding the ~~twenty~~20 largest unsecured claims, original and ~~four~~3 copies;
List of equity security holders; and
Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, original and ~~one copy~~3 copies.

Chapter 12

Petition, original and ~~two copies~~1 copy;
Statement of financial affairs, original and ~~two copies~~1 copy;
Schedules A through J, original and ~~two copies~~1 copy;
List of equity security holders (if the debtor is a corporation or a partnership), original and ~~two copies~~1 copy; and
Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, original and ~~two copies~~1 copy.

Chapter 13

Petition, original and ~~two copies~~1 copy;
Schedules A through J, original and ~~two copies~~1 copy;
Statement of financial affairs, original and ~~two copies~~1 copy;

Chapter 13 plan and plan summary, original and ~~two copies~~1 copy; and Statement disclosing compensation paid or promised to be paid to the attorney for the debtor, original and ~~two copies~~1 copy.

(c) **List of Creditors and Equity Security Holders.** ~~In addition to filing schedules as required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and these Local Rules, debtors shall~~ The debtor must file a list of creditors and, ~~where~~if applicable, a list of equity security holders, in the ~~fashion~~manner prescribed by the clerk's office to facilitate the use of automated equipment. ~~Whenever providing notice exceeds the resources of the clerk's office, the clerk shall so notify counsel for the debtor and, thereafter, except where provided by the Federal Rules of Bankruptcy Procedure, the debtor shall be responsible for providing all notices including notice of the meeting of creditors and of the discharge. Debtor's counsel shall work in conjunction with the clerk's office to ensure that all noticing is completed within time limits fixed by applicable law or by order of the court.~~

(d) **Cover Sheets in Contested Matters.** Unless papers are filed electronically, a properly completed amendment cover sheet must be filed with the clerk with each amendment to a petition, statement of financial affairs, schedule, list of creditors, Chapter 12 or Chapter 13 plan, or other document required by the court. A properly completed civil cover sheet must be filed with the clerk with each notice of appeal and motion to withdraw the reference. Copies of the appropriate cover sheets may be obtained from the clerk.

(~~d~~e) **Date-Stamped Copies.** Any party ~~filing a paper~~ may, at the time of filing, present to the clerk a copy of the paper filed and request the clerk to imprint the clerk's date stamp on the copy. The date-stamped copy ~~shall, thereafter, when presented to the court, be~~is prima facie evidence that the original

was filed with the clerk on the date indicated by the clerk's stamp.

(**ef**) **Facsimile Filing.** ~~Documents~~Papers transmitted to the court via facsimile are not acceptable for filing ~~with the court~~, but ~~documents~~papers with facsimile signatures may be submitted for filing in connection with declarations, affidavits and verifications, so long as the ~~document~~paper bearing the original signature is filed ~~with the court~~ within ~~three~~ 3 business days after the filing of the ~~document~~paper with the facsimile signature.

RULE 5005-2

FILING PAPERS- ELECTRONIC FILING

L. R. 5005-2:

Title: The title to this rule is new.

Text: This rule is new and covers filing papers by electronic means allowed by Fed. R. Bankr. P. 5005(a)(2). The various provisions of the rule are patterned after but are not identical to the Model Local Bankruptcy Court Rules for Electronic Case Filing approved by the Judicial Conference of the United States.

- (a) New subsection (a) provides that the court will designate the cases and proceedings that will be assigned to the Electronic Filing System.
- (b) New subsection (b) provides that once a case or proceeding is assigned to the Electronic Filing System, a Filing User should file all papers electronically unless otherwise directed. Parties who are not Filing Users may file in paper form.
- (c) The Electronic Filing System may only be used by the court and Filing Users. New subsection (c) and (c)(1) sets forth those individuals who are eligible to be Filing Users and registration procedures to become a Filing User. Once an individual becomes a Filing User, certain rules apply which are set forth in subsections (c)(2)-(3), including waiver of service by mail. Grounds for suspension, termination and withdrawal as a Filing User are set forth in subsections (c)(4)-(c)(5). The court may periodically give notice to Filing Users that they are required to renew their registrations, and the specifics are stated in subsection (c)(6).
- (d) New subsection (d) sets forth the consequences of electronic filing, including what constitutes filing and entry on the docket. Also, the official record is defined and the affect on filing deadlines are discussed.

- (e) New subsection (e) sets forth the method for filing attachments and exhibits electronically. Only excerpts of documents that are germane to the matter under consideration by the court should be filed.
- (f) New subsection (f) deals with a Filing User's responsibility to retain certain documents with original signatures.
- (g) New subsection (g) states that the user log-in and password serves as the Filing User's signature on all documents filed electronically, and for all purposes under applicable law. If a Filing User allows someone else to file documents using the Filing User's log-in and password, the responsibility for the signature remains the Filing Users. The subsection also specifies certain information that must be included in documents filed electronically, and governs documents that require multiple signatures.
- (h) New subsection (h) allows a Filing User to seek relief from the court if a filing is made untimely as the result of a technical failure.

(a) **Assignment to Electronic Filing System.** The court will designate which cases and proceedings will be assigned to the Electronic Filing System.

(b) **When Electronic Filing is Required.** Except as expressly provided or in exceptional circumstances, a Filing User should file all petitions, motions, memoranda of law, or other pleadings and documents required to be filed in connection with a case or proceeding assigned to the Electronic Filing System electronically. Notwithstanding the foregoing, attorneys and others who are not Filing Users are not required to electronically file papers in a case or proceeding assigned to the Electronic Filing System.

(c) **Eligibility and Registration of Filing Users and Applicable Rules.** Attorneys admitted to the bar of this court (including those admitted under Local Rule 2090-1(b)), United States trustees and

their assistants, bankruptcy administrators and their assistants, private trustees, and individuals as the court deems appropriate, may register as Filing Users of the court's Electronic Filing System. No entities, such as law firms or corporations, may be Filing Users. Registration is in a form prescribed by the clerk and requires the Filing User's name, address, telephone number, Internet e-mail address, and, in the case of an attorney, a declaration that the attorney is admitted to the bar of this court, and an agreement of the Filing User to comply with the court's posted usage protocols.

(1) Unrepresented Parties. An individual in a pending case or proceeding who is not represented by an attorney may register as a Filing User in the Electronic Filing System solely for the purposes of the case or proceeding. Registration is in a form prescribed by the clerk and requires identification of the case or proceeding as well as the name, address, telephone number and Internet e-mail address of the individual. If, during the course of the case or proceeding, the individual retains an attorney who appears on the party's behalf, the attorney must advise the clerk to terminate the individual's registration as a Filing User upon the attorney's appearance.

(2) Waiver and Consent. Provided that a Filing User has an Internet e-mail address, registration as a Filing User constitutes: (A) waiver of the right to receive notice by first class mail and consent to receive notice electronically; (B) waiver of the right to service by personal service or first class mail and consent to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004; and (C) consent to abide by the court's posted usage protocols. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022.

(3) Log-in and Password. Once registered under subsection (c) of this rule and

training is complete, the Filing User will receive notification of a user log-in and password. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

(4) Suspension and Termination. The court may temporarily suspend a Filing User's use of the Electronic Filing System for cause without notice and a hearing. After notice and a hearing, the court may terminate a Filing User's use of the Electronic Filing System for cause, including abuse of the Electronic Filing System or failure to comply with these Local Rules or the court's posted usage protocols, and impose such sanctions as are appropriate.

(5) Withdrawal. Once registered, a Filing User may withdraw from participation in the Electronic Filing System by providing the clerk with written notice of the withdrawal.

(6) Registration Expiration. The court may give Filing Users notice that if they do not renew their registration within 60 days of the date of the notice, their passwords will expire and their ability to utilize the Electronic Filing System will terminate.

(d) Consequences of Electronic Filing. A Filing User whose password is used to file a petition, pleading, motion, claim or other document thereby certifies that the Filing User, whether an attorney or a party appearing without an attorney, has authorized the filing.

(1) Filing, Entry on the Docket, and Official Record. Electronic transmission of a document to the Electronic Filing System consistent with these Local Rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and these Local Rules, and constitutes entry of the document on the docket kept by the clerk under Fed. R. Bankr. P. 5003. When a

document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed, unless the court orders otherwise. A document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

(2) **Deadlines.** Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local time where the court is located in order to be considered timely filed that day.

(e) **Attachments and Exhibits.** Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the court permits conventional filing. A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or to file the complete document conventionally. Responding parties may timely file additional excerpts electronically or complete documents conventionally that they believe are germane.

(f) **Retention Requirements.** Documents that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until 5 years after all time periods for appeals expire. On request of the court, the Filing User must provide original documents for review.

(g) **Signatures.** The user log-in and password required to present documents on the Electronic Filing System serve as the Filing User's signature for all purposes, including 18 U.S.C. § 151

et seq., 28 U.S.C. § 1746, all sections of the Bankruptcy Code, Fed. R. Bankr. P. 9011, and all other provisions of the Federal Rules of Bankruptcy Procedure, and the Local Rules. Each document filed electronically should indicate that it has been electronically filed, and it must include a caption in compliance with Local Rule 9004-1(a). The name of the Filing User under whose log-in and password the document is submitted must be preceded by an “/s/” and typed in the space where the signature would otherwise appear in the signature block, or by a graphical signature.

(1) Unauthorized Use. No Filing User or other person may knowingly permit or cause to permit a Filing User’s password to be used by anyone other than an authorized agent of the Filing User.

(2) Multi-Signature Documents. Documents requiring signatures of more than 1 party must be electronically filed either by: (A) submitting a scanned document containing all necessary signatures; (B) representing the consent of the other parties on the document; (C) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by those parties no later than 3 business days after filing the document; or (D) in any other manner approved by the court on a case by case basis.

(h) Technical Failures. A Filing User or other party whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

RULE 5005-3

FILING PAPERS - SIZE AND FORM OF PAPERS

L. R. 5005-3:

Title: The title has not changed.

Text:

- (a) The rule now specifies that not less than 12 point type be used on all pleadings. All orders must have at least a 2-1/2 inch top margin on the first page to accommodate the court's electronic signature. Other stylistic changes have been made to subsection (a).
- (b) Subsection (b) has been deleted as unnecessary.
- (c) Due to the deletion of subsection (b), current subsection (c) has been designated subsection (b). A provision has been added to new subsection (b) to provide that service copies may not be reduced by more than 2 reduced pages per printed side. All other changes are stylistic.
- (c) New subsection (c) clarifies that a Filing User filing documents electronically is excused from the requirement to file in paper form.

(a) **Size.** The original of all pleadings, motions, and other papers presented for filing ~~in person~~ ~~or by mail shall~~ **must** be on 8-1/2 x 11 inch white paper of good quality, with a top margin of not less than 1-1/2 inch, a left-hand margin of not less than 1 inch, flat and unfolded, and ~~shall be~~ plainly typewritten or printed **in not less than 12 point type** on only one side of each page. **All orders presented for filing must have a top margin of not less than 2-1/2 inches on the first page.**

~~(b)~~ **Copies of Documents Filed.** Where required, copies of all original documents shall be prepared by using a clearly legible duplication process.

~~(c)~~ **Form.** Originals and copies of all ~~documents shall~~ papers must be double-spaced except for quoted material, footnotes, and form documents approved by the court. Each page ~~shall~~ must be numbered consecutively at the bottom of the page. This format ~~shall~~ may vary, however, to comply with any applicable forms adopted by this court or prescribed by the Judicial Conference of the United States. Service copies may not be reduced by more than 2 reduced pages per printed side.

~~(c)~~ **Electronic Filing.** Filing Users who file documents electronically pursuant to these Local Rules are excused from the provisions of Local Rule 5005-3(a) requiring that said documents be in paper form.

RULE 5072-1

~~COURTROOM~~DECORUM

L. R. 5072-1:

Title: The title of the rule is changed to delete the word “courtroom.” The rule is applicable to conduct in all proceedings, not just those in the courtroom.

Text:

- (a) Subsection (a) is new. It directs both parties and attorneys to conduct themselves in as civil and professional matter.
- (b) Proposed subsection (b) contains the text of current subsection (a) with stylistic changes. The subtitle reflects that it pertains to the courtroom conduct of attorneys, to distinguish it from broader proposed subsection (a). Stylistic changes have been made, including replacing the word “counsel” with “attorney.”
- (c) Proposed subsection (c) contains the text of current subsection (b) with stylistic changes. The subtitle has been modified to make it more specific.

(a) ~~Conduct of Counsel.~~ Attorneys and parties should conduct themselves at all times, including meetings of creditors and discovery proceedings, in a civil and professional manner.

(b) Courtroom Conduct of Attorneys.

(1) Unless the court permits otherwise, ~~only one~~¹ attorney for each party may examine or cross-examine a witness and not more than ~~two~~² attorneys for each party may argue the merits of the action, ~~unless the court permits otherwise.~~

(2) To maintain decorum in the courtroom when court is in session, ~~counsel~~
~~shall~~ attorneys must abide strictly by the following rules, unless ~~allowed by the court~~ the court

permits otherwise:

(A) ~~Counsel shall~~Attorneys must stand when addressing the court and when examining and cross-examining witnesses.

(B) ~~Counsel shall~~Attorneys must not address questions or remarks to an opposing ~~counsel~~attorney without first obtaining permission from the court. Appropriate and quiet informal consultations among ~~counsel~~attorneys off the record are not precluded so long asif this does not delay or disrupt the progress of the proceedings.

(C) The examination and cross-examination of witnesses ~~shall~~must be limited to questions addressed to witnesses. ~~Counsel shall refrain from making~~Attorneys must not make statements, comments, or remarks prior to asking a question or after a question has been answered.

(D) In making an objection, ~~counsel shall~~an attorney must state plainly and briefly the specific ground for ~~the~~an objection and ~~shall~~must not engage in argument unless requested or permitted by the court.

(E) Only ~~one~~1 attorney for each party ~~shall make objections~~ may object to the testimony of a witness being questioned by an opposing party. The ~~objections~~ ~~shall~~objection must be made by the attorney who has conducted or is to conduct the examination of the witness.

(F) ~~The examination of witnesses shall be conducted~~Attorneys must examine a witness from the ~~counsel's~~attorney's table or the lectern, ~~except when~~unless necessary to approach the witness or the clerk's desk ~~for the purpose of presenting~~to present or

~~examining~~examine an exhibits.

(b) Courtroom Argument. The court ~~shall~~may determine the length of time and the sequence of final arguments of the parties. The party having the primary burden of proof ~~shall~~must open and close the final arguments unless the court directs otherwise.

RULE 5073-1

PHOTOGRAPHY, ~~AND~~ RECORDING DEVICES, ~~AND BROADCASTING~~

L. R. 5073-1:

Title: The title has been changed to delete the reference to broadcasting, because the rule no longer references broadcasting.

Text: The rule deletes the instructions or restrictions as to when the court may permit the use of photography or recording devices as unnecessary. Instead, the rule simply states generally that no one may photograph, film or record a judicial proceeding, unless the court permits otherwise.

~~The taking of photographs or the making of mechanical, electronic or similar records in the courtroom and areas immediately adjacent thereto in connection with~~Unless the court permits otherwise, no one may photograph, film or record – sound or video – any judicial proceeding, including recesses,. ~~The court may, however, permit and the broadcasting, televising, recording or photographing of investitive, ceremonial, and all similar proceedings. The court also may permit the use of electronic or photographic means for the presentation of evidence or for the perpetuation of a record.~~

RULE 5080-1

FEES - GENERAL

L. R. 5080-1:

Title: The title has not changed.

Text:

- (a) Subsection (a) has been changed to include payment of fees by credit card, and stylistic changes have been made.
- (b) Subsection (b) has been broadened to apply to any person who pays a fee, not only attorneys. In accord with the proposed amendment to current subsection (a) to include payment of fees by credit card, subsection (b) has been expanded to include consequences in the event that a credit card payment is rejected, and the subtitle has been amended to reflect these changes. Subsection (b) has also been amended to fix 3 years as the period during which a person's name may be placed on the dishonored payment register. All other changes are stylistic.
- (c) Subsection (c) has been deleted as unnecessary because the *In Forma Pauperis* pilot program has expired.

(a) **Payment of Fees.** ~~Under authority of~~ As authorized by 28 U.S.C. § 1930 of title 28 of the United States Code, the clerk ~~shall~~ must collect filing and other fees as prescribed by the Judicial Conference of the United States. All papers filed with the court must be accompanied by the appropriate fee. Fees may be paid in cash, money order, cashier's check, credit card, or a check drawn on the account of the filing attorney made payable to "Clerk, U.S. Bankruptcy Court." Checks from debtors will not be accepted.

(b) **Dishonored Checks Payments.** If an attorney's payor's check is dishonored, or if a

credit card payment that was initially accepted is rejected, the attorney's payor's name will be placed on the court's dishonored check payment register for a period of 3 years. Any attorney A payor whose name appears on the register will have check or credit card privileges revoked and must pay all fees in cash, money order, or cashier's check. The attorney payor will also be required to pay the dishonored check fee or any other related fee authorized by the Judicial Conference of the United States. An attorney A payor's name may remove his or her name be removed from the register by presenting upon presentation to the clerk with of a letter from the drawee bank or credit card provider indicating that the check was dishonored or credit card payment rejected due to bank or provider error. Alternatively, an attorney's a payor's check or credit card privileges may will be reinstated by upon posting an appropriate bond with the court. The attorney's payor's name will be removed from the court's dishonored check payment register after one 1 year of posting bond if the attorney payor has not tendered any checks during that time that have been dishonored and if all credit card payments have cleared.

(c) ~~***In Forma Pauperis Chapter 7 Pilot Program.***~~ Pursuant to the provisions of the “Department of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 1994,” Pub. L. No. 103-121, 107 Stat. 1153, the Judicial Conference of the United States has chosen the District of Utah as one of six judicial districts to participate in a statutory pilot program studying the effect of a fee waiver program. Under the pilot program, the filing fee may be waived in Chapter 7 cases for individual debtors who are unable to pay the fee in installments. To implement and carry out the pilot program, the court has designated an *In Forma Pauperis* Clerk and has adopted an “Application for Waiver of the Chapter 7 Filing Fee for Individuals Who Cannot Pay the Filing Fee in Full or in Installments,” attached to these Local Rules as Appendix A. This Application must be signed under penalty

~~of perjury that the information submitted is true and correct, as provided for in 28 U.S.C. § 1746. The pilot program described in this rule is effective for a three year period beginning October 1, 1994.~~

RULE 5090-1

VISITING JUDGES ~~-VISITING AND RECALLED~~

L. R. 5090-1:

Title: The title has been simplified.

Text: The text has been amended with stylistic changes.

In all matters assigned to a visiting judge, parties ~~shall~~**must** keep the assigned scheduling clerk informed ~~as to~~**of** developments affecting settlements, postponements, or lengths of time needed before the court. ~~Any~~**A party must report any** developments ~~shall be reported~~ no ~~less~~**later** than ~~five~~**5** business days ~~from~~**before** the date the matter is scheduled before the court.

RULE 6005-1

APPRAISERS AND AUCTIONEERS

L. R. 6005-1:

Title: The title has not changed.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Subsection (b) has been modified to increase from \$25,000 to \$100,000 a standing auctioneer's property damage and theft coverage and fidelity bond. The last two sentences of current subsection (b) have been deleted, and made into new subsection (c). All other changes are stylistic.
- (c) Proposed subsection (c) is new, but it contains the text of the last two sentences of current subsection (b) with some stylistic changes.
- (d) Due to the addition of proposed subsection (c), current subsection (c) has been redesignated as subsection (d), and stylistic changes have been made.
- (e) Due to the addition of proposed subsection (c), current subsection (d) has been redesignated as subsection (e). Current subsection (d)(1) has been deleted as unnecessary. Proposed subsection (e)(1) contains the contents of current subsection (d)(2), with some stylistic changes. Current subsection (d)(3) has been redesignated as subsection (e)(2) and stylistic changes have been made. Current subsection (d)(4) has been redesignated as subsection (e)(3) and stylistic changes have been made. This subsection has been amended to clarify that the parties may agree, or a party may obtain an order, shifting the burden to transport property to the auctioneer. Current subsection (d)(5) has been redesignated as subsection (e)(4) and stylistic changes have been made. Current subsection (d)(6) has been redesignated as subsection (e)(5) and stylistic changes have been made.

- (f) Due to the addition of proposed subsection (c), current subsection (e) has been redesignated as subsection (f), and stylistic changes have been made.
- (g) Due to the addition of proposed subsection (c), current subsection (f) has been redesignated as subsection (g), and stylistic changes have been made. The reference to a trustee's business judgment is deleted as unnecessary.
- (h) Due to the addition of proposed subsection (c), current subsection (g) has been redesignated as subsection (h), and stylistic changes have been made. The proposed rule is clarified to provide that a standing auctioneer's resignation should be in writing.
- (i) Proposed subsection (i) is new. If there is no objection to a properly noticed sale conducted by a standing auctioneer, a hearing is not necessary.

(a) **General.** This court may appoint any number of standing auctioneers ~~at any given time.~~

The United States trustee ~~shall~~must maintain a list of all current appointed standing auctioneers.

(b) **Appointment.** To be appointed as a standing auctioneer, an auctioneering company, whether a sole proprietorship, partnership, or corporation must show, by ~~affidavit~~declaration submitted to the United States trustee, that at least ~~one~~1 person employed by such company has met the following qualifications:

(1) The candidate has ~~three~~3 or more years of experience as an active auctioneer during the ~~four~~4 year period prior to making ~~such~~the application. "Active auctioneer" experience is defined as devoting the majority of such person's work time to the auctioneering business, including the preparation for, promoting of, and conducting of auctions~~;~~;

(2) The candidate ~~must be~~is duly licensed ~~as such~~ by a state, municipality, or some other governmental entity~~;~~;

- (3) The candidate ~~must be~~ at least ~~twenty-one~~21 years of age;
- (4) The candidate has not been convicted of any felony ~~nor of any~~ or misdemeanor involving forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other like offenses;
- (5) The auctioneering company ~~must maintain~~ property damage and theft coverage ~~in the sum~~ of no less than ~~\$25~~\$100,000-00, or in a higher amount if requested by the United States trustee. The policy must cover only ~~said~~ estate property;
- (6) The auctioneering company ~~must maintain~~ an on-site liability insurance policy with limits for bodily injury of at least \$100,000-00 per person and \$300,000-00 per occurrence; ~~and~~
- (7) The auctioneering company ~~must have~~ posted or will post with the United States trustee a ~~\$25~~\$100,000-00 bond in favor of the United States and conditioned on the faithful performance of ~~his or her~~its official duties.

(c) **Letters of Reference.** In addition to the ~~affidavit~~ declaration required under subsection (b) of this rule, the candidate must submit letters of reference from at least ~~two~~2 individuals, other than relatives, who have personal knowledge of the candidate's honesty, truthfulness, and good repute as an auctioneer. ~~If the applicant meets the requirements of this rule,~~ the United States trustee ~~shall~~may certify the applicant to the list of current standing auctioneers ~~after a determination that the above-listed requirements have been met.~~

(cd) **Effect of Appointment.** Trustees may, ~~within~~subject to the limits of ~~11 U.S.C.~~ § 327(a) of the Code, use any of the standing auctioneers ~~as per their needs in the liquidation of~~to liquidate personal property of the estate, without further permission of the court. The fact that an auctioneer has been certified

to the list of standing auctioneers ~~shall~~ should not be construed as an order directing the trustees to employ the ~~same~~ same auctioneer. Trustees retain the privilege of selecting, subject to ~~meeting~~ the requirements of ~~11~~ U.S.C. § 327 ~~of the Code~~, auctioneers and other employees to serve the estate.

(de) Procedure for Sales by Appointed Standing Auctioneers. The following procedures ~~shall~~ apply to all sales held by ~~an appointed~~ a standing auctioneer:

- (1) The auctioneer ~~may use the court-approved forms for delivery receipts and final accountings;~~
 - (2) ~~The auctioneer shall comply with the provisions of any order of the court~~ must comply with any order regarding the sale;-
 - (32) The auctioneer ~~shall~~ must give appropriate public notice of ~~said~~ the sale and give the trustee evidence of the ~~same~~ notice with the final accounting;
 - (43) The auctioneer ~~shall~~ must not, without the trustee's ~~explicit~~ consent, incur expenses for transporting property. ~~The debtor, unless otherwise agreed or ordered, will be charged with the duty of transporting~~ debtor must transport property to the auctioneer;
 - (54) ~~The terms of all~~ All sales are ~~must be for~~ cash, unless the trustee directs otherwise;
- and
- (65) Immediately after the sale, the ~~standing~~ auctioneer ~~shall~~ must forward the proceeds, less a commission, to the trustee ~~along with~~ a full accounting.

(ef) Commissions. The commission of any standing auctioneer ~~shall be at a rate~~ must not to exceed ~~fifteen percent (15%)~~ of the gross proceeds of the sale, with the exact rate to be negotiated by the trustee and the standing auctioneer on a case-by-case basis.

(fg) Expenses. ~~Notwithstanding the limitation on compensation set forth in subsection (f), if~~
a standing auctioneer, ~~pursuant to at the express direction of the trustee, based upon the trustee's exercise~~
~~of his or her own business judgment, is required to~~ incurs expenses related to the sale of property, he or
she ~~shall be~~ is entitled to reimbursement for actual expenses out of the estate.; ~~notwithstanding the limitation~~
~~on compensation set forth in subsection (e).~~

(gh) Removal and Resignation.

(1) General. A standing auctioneer ~~has the affirmative duty to~~ must notify the court and
the United States trustee immediately ~~should if~~ he or she no longer ~~meet the qualifications~~
~~necessary~~ qualifies for certification to the list of standing auctioneers. A standing auctioneer may
tender his or her resignation at any time by ~~filing~~ submitting it ~~within a writing to~~ the United States
trustee. In that event, the United States trustee ~~shall~~ must remove the name from the list and notify
panel trustees ~~forthwith~~.

(2) Removal for Cause. The court may remove any standing auctioneer for cause.

(i) Hearings on Sales Conducted by a Standing Auctioneer. A hearing scheduled on
a sale to be conducted by a standing auctioneer may be stricken if no objection to the sale is timely filed.

RULE 6007-1

ABANDONMENT

L. R. 6007-1:

Title: The title has not changed.

Text: The current rule has been amended to provide for oral general notice of abandonment by the trustee at a first meeting of creditors in a Chapter 7 case and opportunity for objection. Under the proposed rule, the provision that a notice of abandonment is not necessary after the filing of a no-asset report has been eliminated. All other changes are stylistic.

The trustee or debtor in possession is relieved of the notice requirement imposed by Fed. R. Bankr.

P. 6007(a) where the property to be abandoned does not exceed \$2,500.00 in total value. ~~NA~~ A general notice of abandonment ~~is not necessary after the Chapter 7 trustee has filed a no asset report that is not withdrawn~~ given orally by the trustee at a first meeting of creditors in a Chapter 7 case, is, absent an objection made within 15 days, sufficient notice of any abandonment determined by the trustee to be appropriate thereafter.

RULE 6070-1

TAX RETURNS AND TAX REFUNDS

L. R. 6070-1:

Title: The title has not changed.

Text:

- (a) The current rule has been changed to include applicable chapter 12 and 13 cases, and stylistic changes have been made to subsection (a).
- (b) Stylistic changes have been made to subsection (b).
- (c) Subsection (c) has been moved to new subsection (d). New subsection (c) has been added. It compels chapter 13 debtors to file tax returns required by state or federal law. The returns must be filed within 90 days of the meeting of creditors. Should the debtor fail to file the required returns, the trustee or taxing authority may file a motion to dismiss the case. The procedure for dismissal if no objection to the motion to dismiss is filed, or for hearing and subsequent ruling, mirrors the procedure in Local Rule 2083-1(b). New subsection (d) contains stylistic changes.

(a) **Tax Requirements in Chapter 11, 12 and 13 Cases.** Debtors in possession ~~and~~ Chapter 11 trustees, ~~and Chapter 12 and 13 debtors~~, are subject to the requirements and regulations of the Internal Revenue Service and any applicable state or local taxing authority. Debtors who are not employers are required to comply only with ~~paragraph~~ subsection (6) ~~of this subsection~~ below.

- (1) **Federal Taxes.** The ~~debtor~~, debtor in possession or the trustee ~~shall~~ must comply with the Internal Revenue ~~Service laws~~ Code and regulations regarding withholding of taxes from the wages of employees, the payment of the employer's FICA and FUTA tax liabilities, the making

of deposits of such taxes, and the filing of employment tax returns as well as any excise or income tax returns for which the estate is liable.

(2) State Taxes. The ~~debtor~~, debtor in possession or the trustee ~~shall~~**must** comply with the laws and regulations of any applicable state or local taxing authority regarding withholding of taxes from the wages of employees; the collection and remittance of other types of tax ~~for~~ which the estate is required to collect, deposit with, or remit to any applicable state or local taxing authority; the payment of unemployment insurance contributions to the appropriate state or local taxing authority; and the timely filing of returns accounting for the same.

(3) Trust Accounts. Within ~~twenty~~**20** days ~~from~~**after** the ~~filing of the Chapter 11~~ petition ~~date~~, the debtor in possession or trustee ~~shall~~**must** open separate bank trust accounts for the Internal Revenue Service and for each applicable state and local taxing authority for all tax deposits. Only ~~such~~**the** tax deposits due each entity are to be made into these trust accounts as they accrue each pay period. **A Chapter 12 or 13 debtor must provide the applicable trustee proof of such trust accounts at the § 341 meeting.**

(4) Notification. The debtor in possession or trustee ~~shall~~**should** notify the Internal Revenue Service and each state or local taxing authority of the location and account numbers of the respective trust accounts opened ~~pursuant to~~**under** subsection (a)(3) of this rule. ~~Said~~**The** notices ~~shall~~**should** be sent within ~~five~~**5** days ~~from~~**after** the date the account is opened. Notices to the Internal Revenue Service, the Utah State Tax Commission, and the Utah Department of ~~Employment Security~~ ~~shall~~**Workforce Services must** be mailed or delivered to addresses cited in **Local Rule 2002-1(j) of these Local Rules.**

(5) State Deposit Verification. The ~~debtor~~, debtor in possession or trustee ~~shall~~**must**, if applicable, file the Utah State Tax Commission's ~~form pertaining to~~ Verification of Taxpayer Deposit at the address shown in **Local** Rule 2002-1(jf) ~~of these Local Rules~~, within ~~five~~**5** days ~~of~~**after** making the required deposit.

(6) Filing and Payment. The ~~debtor~~, debtor in possession or trustee ~~shall~~**must**: (A) timely file any required tax returns with the Internal Revenue Service; (B) timely file any required tax returns with any applicable state or local taxing authority; (C) timely file unemployment insurance contribution reports with applicable state or local authorities; and (D) pay taxes on a current basis. Returns and reports filed with and payments made to the Internal Revenue Service, the Utah State Tax Commission and the Utah Department of ~~Employment Security~~ **Workforce Services** ~~shall~~**should** be delivered to the addresses stated in **Local** Rule 2002-1(jf) ~~of these Local Rules~~, not to the regular addresses for filing ~~such~~**the** returns and reports ~~or making such payments~~.

(b) Tax Returns in Chapter 12 Cases. The Chapter 12 debtor ~~shall~~**must**, at least ~~thirty~~**30** days ~~prior to~~**before** the first day required by law for the filing of the debtor's federal tax return(s), forward to the trustee a full and complete copy of the federal tax return(s) for each preceding year or portion thereof while the case is pending.

(c) Tax Returns in Chapter 13 Cases. The Chapter 13 debtor must, at least 90 days after the initial meeting of creditors under § 341 of the Code, file any past and currently due tax returns. If the debtor fails to do so, the trustee or taxing authority may file a motion to dismiss and serve it on the debtor and the debtor's attorney. If an objection to the motion to dismiss is not filed within 20 days after service of the motion, the clerk must enter an order dismissing the case. The objecting party must set a hearing and

give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, if a hearing on the objection is not held within 40 days after the objection is filed, the clerk shall enter the order of dismissal.

(cd) Modification of the Automatic Stay for Certain Assessments and Refunds of Taxing Entities. Unless a party in interest objects and the court orders otherwise, the stay ~~afforded by 11 U.S.C.~~ of § 362 of the Code is modified to provide for the following assessments and refunds in any case filed in this district. The Internal Revenue Service, Utah Tax Commission, and the Utah Department of ~~Employment Security~~ **Workforce Services** are authorized to:

- (1) assess tax liabilities reflected on voluntary filed tax returns and tax returns prepared under authority of applicable statutory provisions; and
- (2) make refunds in the ordinary course of business to debtors who have filed cases under Chapter 9, 12 or 13, to trustees appointed in Chapter 7 and 11 cases, or, if a trustee has not been appointed in a Chapter 11 case, to the debtor in possession.

RULE 7003-1

COVER SHEETS IN ADVERSARY PROCEEDINGS

L. R. 7003-1:

Title: The title has been changed to reference adversary proceedings.

Text: The rule has been changed to delete references to cover sheets in the main case, because this rule relates to adversary proceedings. The deleted text, with stylistic changes, has been moved to Local Rule 5005-1(d). All other changes are stylistic.

A properly completed adversary proceeding cover sheet ~~shall~~**must** be filed with the clerk at the commencement of each adversary proceeding. ~~Unless documents are filed electronically, a~~**A properly completed civil cover sheet shall**~~must~~ be filed with the clerk with each notice of appeal and motion to withdraw the reference. ~~A properly completed amendment cover sheet shall be filed with the clerk with each amendment to a petition, statement of financial affairs, schedule, list of creditors, Chapter 12 or Chapter 13 plan, or other document required by the court.~~ Copies of the appropriate cover sheets may be obtained from the clerk.

RULE 7005-2-1

FILING OF DISCOVERY MATERIALS

L. R. 7005-2:

Title: The rule is renumbered from 7005-2 to 7001-1 to correct an error in the current rules.

Text: The current rule has been expanded to state that Fed. R. Bankr. P. 7026(a)(1) and (2) disclosures and responses to interrogatories do not need to be filed with the court, unless otherwise ordered by the court. The proposed rule also makes more specific references to the applicable procedural rules. All other changes are stylistic.

~~Unless otherwise ordered by the court, parties shall not file with the court depositions transcripts,~~In accordance with Fed. R. Civ. P. 5(d) and Fed. R. Bankr. P. 7005, disclosures under Fed. R. Civ. P. 26(a)(1) or (2) and Fed. R. Bankr. P. 7026, deposition transcripts and the following discovery requests and responses must not be filed until they are used in a case or proceeding or the court orders filing: (1) interrogatories, (2) requests for ~~production, inspection, or admission, or answers and responses thereto.~~ ~~Counsel shall file with the court~~documents or to permit entry upon land, and (3) requests for admission. A party must file a notice of service of the foregoing materials on opposing ~~counsel~~parties. Filing the notice of taking deposition required by Fed. R. ~~Civ. P. 30(b)(1) and Fed. R. Bankr. P. 7030~~ will satisfy/satisfies the requirement of filing a notice of service with respect to depositions. This ~~section shall~~rule does not preclude the use of discovery materials at a hearing or at trial or as exhibits to motions. ~~Local Rule 9070-1 governs~~ the custody and disposition of discovery materials ~~that are~~ introduced as trial exhibits ~~shall conform to Local Rule 9070-1.~~ The originals of all discovery items covered by this rule and not filed with

the court ~~shall~~^{must} be held by the party propounding them as custodian ~~of such records~~ for the court.

RULE 7016-1

PRETRIAL PROCEDURES

L. R. 7016-1:

Title: The title has not changed.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Subsection (b) has been amended to modify the times set forth in Fed. R. Bankr. P. 7026 and Fed. R. Civ. P. 26(f) for conferring and for filing Form 35. The amended rule makes clear that the parties, not the plaintiffs, are jointly responsible for filing Form 35.
- (c) Stylistic changes have been made to subsection (c).
- (d) The amount in controversy for an expedited adversary proceeding in current subsection (d) has been increased from \$10,000 to \$15,000.
- (e) No changes have been made to subsection (e).
- (f) Stylistic changes have been made to subsection (f).
- (g) Stylistic changes have been made to subsection (g).
- (h) Subsection (h) has been modified to state that the plaintiff's attorney is responsible for filing a pretrial order that has been approved by all parties. Current subsection (h) has also been amended to delete the reference to "shall" in the last sentence, and replace it with "may" to give the court the discretion to dismiss an adversary proceeding when a pretrial order is not timely filed.

(a) **Initial Pretrial Conference.** After the initial appearance of ~~the~~^a defendant, the clerk ~~of~~
~~the court shall~~^{must} notify the parties of the date, time, and place of the initial pretrial conference under ~~Fed~~

~~R. Civ. P. 16 and Fed. R. Bankr. P. 7016 before the judge assigned to the adversary proceeding.~~

(b) **Parties' Planning Conference.** ~~Pursuant to~~ Under Fed. R. Civ. P. 26(f) and Fed. R. Bankr. P. 7026(f), the parties ~~shall meet~~ must confer as soon as practicable and in any event at least ~~fourteen~~ 21 days prior to the initial pretrial conference ~~scheduled pursuant to subsection (a) of this rule, and~~ must prepare a Report of Parties' Planning Meeting which conforms substantially with Form 35, a copy of which is attached as Appendix A to these Local Rules. No later than ~~ten~~ 14 days after the ~~initial pretrial conference~~ parties' planning conference, the plaintiff shall file with the court a Report of Parties' Planning Meeting in substantially the same form as Fed. R. Civ. P. Form 35, a copy of which is attached as Appendix B to these Local Rules. the parties are jointly responsible for filing Form 35 with the court.

(c) **Scheduling Order.** At the conclusion of the initial pretrial conference, the court will enter a scheduling order ~~pursuant to Fed. R. Civ. P. 16(b) and~~ in accordance with Fed. R. Bankr. P. 7016. Included in the scheduling order will be modifications of discovery requirements as the court deems appropriate.

(d) **Expedited Adversary Proceeding.** At the initial pretrial conference, if the amount of the controversy is ~~\$10,000~~ \$15,000 or less, or by consent of the parties, the court may order that the trial be scheduled on an expedited basis. ~~If so orders, the~~ The scheduling order ~~shall~~ will govern the procedure to be followed before and during ~~the preparation of and at such~~ an expedited trial.

(e) **Supplemental Pretrial Conferences.** At the request of a party or on the court's own motion, the court may schedule a supplemental pretrial conference to expedite disposition of the adversary proceeding particularly if it involves complex facts or unusual delay.

(f) **Attorneys' Conference.** At a time to be fixed during the initial pretrial conference, or,

if no time is fixed, at least ~~ten~~10 days prior to the final pretrial conference ~~or the filing of a proposed pretrial order, counsel~~ the attorneys for the parties ~~shall~~ must hold an attorneys' conference to discuss settlement, a proposed pretrial order, stipulated facts, exhibit list, witness list, and other matters that will aid in an expeditious and productive final pretrial conference and the preparation of an accurate, complete, and definitive pretrial order.

(g) **Final Pretrial Conference.** The court may schedule a final pretrial conference. ~~Counsel who will try the adversary proceeding shall~~ The trial attorney must attend the final pretrial conference. Preparation for the final pretrial conference should be ~~pursuant to~~ in accordance with ~~Fed. R. Civ. P. 16 and~~ Fed. R. Bankr. P. 7016.

(h) **Pretrial Order.** At the time ordered by the court, the ~~parties~~ plaintiff ~~shall~~ must submit to the court for execution a proposed pretrial order approved by all ~~counsel~~ attorneys. The form of the pretrial order should generally conform to the approved form attached as Appendix ~~C~~B to these Local Rules. ~~In the event counsel~~ If the attorneys are unable to agree ~~to~~ on a proposed pretrial order, each attorney ~~counsel~~ will ~~must~~ state ~~to the court their~~ his or her contentions as to the portion of the pretrial order upon which no agreement has been reached. The court will then determine a final form for the pretrial order and advise the parties. Thereafter, the order will control the course of the trial and may not be amended except by consent of the parties and the court or by order of the court to prevent manifest injustice. The pleadings will be deemed merged ~~therein~~ into the order. The court ~~shall~~ may dismiss an adversary proceeding ~~in which~~ if the pretrial order is not filed within the time fixed by the scheduling order.

RULE 7024-2-1

CLAIM OF UNCONSTITUTIONALITY, CLAIM OF

L.R. 7042-2:

Title: The rule has been renumbered from “7024-2” to “7024-1,” to correct an error in the current rule. The title of the rule has been changed for stylistic reasons.

Text:

- (a) Stylistic changes have been made to subsection (a) and the statutory reference has been changed.
- (b) Subsection (b) has been modified to clarify that the procedure set forth in subsection (a) is the same procedure used in subsection (b). All other changes to subsection (b) are stylistic.

(a) **An Act of Congress.** ~~Whenever~~When the constitutionality of any act of Congress affecting the public interest is, or is intended to be, drawn in question in any case or ~~adversary~~ proceeding to which the United States, or any ~~agency thereof, or any officer or employee thereof, as such officer or employee~~of its agencies, officers, or employees is not a party, ~~counsel~~the attorney for the party raising ~~or intending to raise such~~the constitutional issue ~~shall~~must immediately notify the clerk, in writing, specifying the act or the provision ~~thereof~~ which ~~are~~is attacked~~challenged~~, with a proper reference to the title and section of the United States Code if the act is included ~~therein~~in it, and a description of the claim of unconstitutionality.

Upon ~~the~~ receipt of ~~such~~the notice, the clerk, on behalf of the court, ~~shall~~must file a certificate in substantially the following form:

The United States Bankruptcy Court for the District of Utah hereby certifies to the Attorney General of the United States that the constitutionality of an Act of Congress, ~~Title~~ **title** ____, ~~Section~~ **§** ____, United States Code (or other description), is drawn in question in the case of _____ vs. _____, Case No. _____, Adversary Proceeding No. _____, to which neither the United States, nor any ~~agency thereof, nor any officer or employee thereof, as such officer or employee of its agencies, officers, or employees,~~ is a party. Pursuant to ~~Under Title~~ **title** 28, ~~Section~~ **§** 2403(ba) of the United States Code, the United States is permitted to intervene in the case for the presentation of evidence, if admissible, and for argument on the question of constitutionality.

The clerk ~~shall~~ **must** send a copy of the certificate to the United States Attorney for the District of Utah and **provide a copy** to the judge to whom the case or proceeding is assigned, or to the Chief Judge of the court, if no assignment has been made.

(b) **A Statute of a State.** Whenever the constitutionality of any statute of a state affecting the public interest is, or is intended to be, drawn in question in any case or proceeding to which the state or any ~~agency thereof, or any officer or employee thereof, as such officer or employee~~ **of its agencies, officers, or employees,** is not a party, the attorney for the party raising ~~or intending to raise such~~ the constitutional issue ~~shall~~ **must** immediately ~~advise~~ **notify** the clerk, in writing, specifying the act or the provision ~~thereof~~ which ~~are~~ **is** ~~attacked~~ **challenged**, with a proper reference to the title and section of the statute ~~if it is included therein~~, and a description of the claim of unconstitutionality.

Upon ~~the~~ receipt of ~~such advice~~ **the notice**, the clerk on behalf of the court, ~~shall~~ **must** file a certificate

~~with the Attorney General of the state~~ in substantially the following form:

The United States Bankruptcy Court for the District of Utah hereby certifies to the Attorney General of the State of _____, that the constitutionality of an Act of the legislature of the State of _____, ~~Title~~ ~~title~~ _____, Chapter _____, ~~Section~~§_____, (or other description), is drawn in question in the case of _____ vs. _____, Case No. _____, Adversary Proceeding No. _____, to which neither the State of _____, nor any ~~agency thereof, nor any officer or employee thereof, as such officer or employee~~ **of its agencies, officers, or employees, is a party.** Pursuant to ~~Under Title~~ ~~title~~ 28, ~~Section~~§ 2403(b) of the United States Code, the State of _____ is permitted to intervene in the case for the presentation of evidence, if admissible, and for argument on the question of constitutionality.

The clerk ~~shall~~ **must** send a copy of the certificate to the ~~Attorney General of the state and provide a copy to the~~ judge to whom the case or proceeding is assigned, or to the Chief Judge of the court, if no assignment has been made.

RULE 7026-1

DISCOVERY - GENERAL

L.R. 7026-1:

Title: The title has not changed.

Text:

- (a) Current subsection (a) has been deleted. The content of current subsection (a)(1) has been moved to rule 9014-1 relating to contested matters. The content of current subsection (a)(2) has been deleted as unnecessary, because the 2000 amendments to the Federal Rules of Civil Procedure no longer allow a court to opt out of Fed. R. Civ. P. 26.
- (b) Current subsection (b)(1) has been deleted as unnecessary in light of the 2000 amendments to Fed. R. Civ. P. 26, made applicable by Fed. R. Bankr. P. 9032.
- (c) Current subsection (b)(2) has been redesignated as subsection (a), and re-titled “Attorney Managed Discovery” to better reflect its contents and the fact that discovery under Fed. R. Civ. P. 26(b) may be attorney or court managed. The content of current subsection (b)(2) has been modified to reflect that discovery is limited under the Fed. R. Civ. P. 26(b)(1) to matters relevant to claims and defenses, rather than subject matter discovery. All other changes to subsection (b)(2) are stylistic.
- (d) Current subsection (b)(3) has been renumbered as subsection (c).
- (e) Proposed subsection (b) is new, providing for court managed discovery in accordance with Fed. R. Civ. P. 26.

~~(a) Application of Fed. R. Civ. P. 26.~~

~~(1) Contested Matters. Fed. R. Civ. P. 26 shall not apply to contested matters under Fed. R. Bankr. P. 9014. At the request of any party in interest or on the court's own~~

~~motion the court may order that Fed. R. Civ. P. 26 will apply to a contested matter.~~

~~(2) Adversary Proceedings. Fed. R. Civ. P. 26 shall apply to all adversary proceedings filed with the court on or after April 4, 1994.~~

~~(b) **Discovery Procedures.**~~

~~(1) Discovery Conference. At any time after commencement of an adversary proceeding, the court may notice a supplemental discovery conference to be attended by the counsel for the parties. The court may also notice a supplemental discovery conference upon request of an attorney for a party if the request includes:~~

~~(A) a statement of the issues as they then appear;~~

~~(B) a proposed plan and schedule of discovery;~~

~~(C) any proposed limitations on discovery;~~

~~(D) any other proposed orders with respect to discovery; and~~

~~(E) a statement showing that the attorney making the request has made a reasonable effort to reach agreement with all other attorneys of record on the matters set forth in the request.~~

~~Each party and all attorneys of record are under a duty to participate in good faith in the framing of a discovery plan if a plan is proposed by the attorney for any party. Notice of the request shall be served on all counsel of record. Objections or additions to matters set forth in the request shall be served not later than ten days after service of the request.~~

~~Following the discovery conference, the court shall enter an order tentatively identifying the issues for discovery purposes, establishing a plan and schedule for discovery, setting limitations on~~

~~discovery, if any, and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the adversary proceeding or petition. The court may alter or amend a discovery order whenever justice so requires.~~

~~Subject to the right of a party who properly requests a discovery conference to prompt convening of the conference, the court may combine the discovery conference with a pretrial conference authorized by Fed. R. Civ. P. 16 and Fed. R. Bankr. P. 7016.~~

~~(2) Motions Concerning Discovery and Production of Documents~~

(a) Attorney Managed Discovery. To curtail undue delay in the administration of justice, the court may refuse to hear any and all motions ~~for related to discovery and for production of documents~~ under Fed. R. Bankr. P. 7026 through 7037 ~~relevant to the claim or defense of any party~~, unless the moving ~~counsel~~attorney ~~shall~~ first advises the court in writing that, having conducted personal consultation and having attempted in good faith to resolve differences, the parties are unable to reach an accord on matters to be heard. ~~Such~~The statement ~~shall~~must also recite the date, time, and place of ~~such~~the consultation, and the names of all participating parties or attorneys.

~~(3) Form of Certain~~

~~Discovery Documents. Parties responding to interrogatories pursuant to Fed. R. Civ. P. 33 and Fed. R. Bankr. P. 7033; requests for production of documents or things pursuant to Fed. R. Civ. P. 34 and Fed. R.~~

~~Bankr. P. 7034; or requests for admission pursuant to Fed. R. Civ. P. 36 and Fed. R. Bankr. P. 7036 shall repeat in full each such interrogatory or request to which the response is made. The parties also shall number sequentially each interrogatory or request to which response is made.~~

(b) **Court Managed Discovery.** Upon motion of any party and for good cause, the court may order discovery relevant to the subject matter of the case or proceeding.

(c) **Form of Certain Discovery Documents.** Parties responding to interrogatories pursuant to Fed. R. Civ. P. 33 and Fed. R. Bankr. P. 7033; requests for production of documents or things pursuant to Fed. R. Civ. P. 34 and Fed. R. Bankr. P. 7034; or requests for admission pursuant to Fed. R. Civ. P. 36 and Fed. R. Bankr. P. 7036 shall repeat in full each such interrogatory or request to which the response is made. The parties also shall number sequentially each interrogatory or request to which response is made.

RULE 7041-1

DISMISSAL - VOLUNTARY AND FOR LACK OF PROSECUTION

L.R. 7041-1:

Title: The title has not changed.

Text:

- (a) Subsection (a) clarifies that an order of dismissal should accompany any notice of, or stipulation to, dismiss an adversary proceeding. The proviso related to dismissal of complaints objecting to discharge has been deleted because such dismissals are governed by Fed. R. Bankr. P. 7041.
- (b) Stylistic changes have been made to subsection (b).

(a) **Voluntary Dismissal.** ~~Dismissal of actions by plaintiff prior to the filing of an answer or dismissal by stipulation of all parties who have appeared in the action, pursuant to Fed. R. Civ. P. 41(a)(1) and Notices of dismissal and stipulations to dismiss submitted under Fed. R. Civ. P. 41, as made applicable under Fed. R. Bankr. P. 7041, does not require an~~ **should be accompanied by a written** order of dismissal from the court. ~~But, for clarity of the record, such dismissal should be evidenced by a court order, prepared by counsel and submitted to the court; provided, however, that. a complaint objecting to a debtor's discharge shall not be dismissed without notice to the trustee and only on order of the court containing terms and conditions which the court deems proper.~~

(b) **Dismissal for Lack of Prosecution.** ~~At any time,~~ the court may issue ~~at any time~~ an order to show cause why an adversary proceeding should not be dismissed for lack of prosecution. If good cause is not shown within the time prescribed by the order to show cause, the court may enter an order of dismissal with or without prejudice, as the court deems proper.

RULE 7052-1

FINDINGS AND CONCLUSIONS

L.R. 7052-1:

Title: The title has not changed.

Text: The last sentence of the rule has been deleted as unnecessary. All other changes are stylistic.

Except as otherwise directed by the court, in all non-jury proceedings, ~~counsel~~the attorney for each party ~~shall~~must prepare and lodge with the court, at least ~~two~~2 days before trial, proposed findings of fact and conclusions of law consistent with the theory of the submitting party and the facts expected to be proved. Proposed findings ~~should~~must be concise and direct, ~~should~~ recite ultimate rather than mere intermediary evidentiary facts, and ~~should~~ be suitable in form and substance for adoption by the court. ~~should~~ it approve the contentions of the particular party. Proposed findings will serve also as a convenient recitation of the contentions of the respective parties, helpful to the court as it hears and considers the evidence and arguments and relates such evidence, or lack of it, to the salient contentions of the parties.

RULE 7054-1

COSTS - TAXATION/PAYMENT

L.R. 7054-1:

Title: The title has not changed.

Text:

- (a) Subsection (a) has been amended to delete the reference to a memorandum of costs, because 28 U.S.C. § 1924 references only a verification of bill of costs. The last sentence is deleted as unnecessary in light of other rules. All other amendments are stylistic.
- (b) Subsection (b) deletes the reference in the last sentence to a hearing scheduled at the discretion of the clerk as unnecessary. All other changes are stylistic.
- (c) Stylistic changes have been made to subsection (c).
- (d) Stylistic changes have been made to subsection (d).

(a) **Bill of Costs.** Within ~~twenty~~20 days after the entry of final judgment, ~~the~~a party entitled to recover costs ~~shall~~must file ~~with the court~~ a bill of costs, on a form available from the clerk, ~~a memorandum of costs~~ and a verification of bill of costs ~~pursuant to~~under 28 U.S.C. § 1924, ~~of title 28 of the United States Code~~ and serve such documents on ~~counsel~~the attorneys of record of all adverse parties. The ~~memorandum~~bill of costs ~~shall~~must clearly and concisely itemize and describe the costs, checks, money orders, or other forms of payment, and ~~it shall reference and~~must include copies of applicable invoices, receipts, and disbursement instruments. Failure to itemize and verify costs may result in their disallowance.

~~Proof of service upon counsel of record of all adverse parties shall be indicated.~~

(b) **Objections to Bill of Costs.** ~~If a~~ party ~~objects~~ objecting to ~~any item in~~ a bill of costs; ~~such~~ objections ~~shall be set forth in writing~~ must file an objection, supported by ~~affidavits~~ declarations and documentation, and ~~must be filed with the court and served on~~ serve counsel the attorney of record for all adverse parties within ~~ten~~ 10 days after ~~filing and~~ service of the bill of costs. Upon timely objection, a hearing may be scheduled ~~at the discretion of the clerk~~ to review the bill of costs and the objections thereto objection.

(c) **Taxation of Costs.** If no ~~objections to a bill of costs are~~ objection is timely filed ~~with the~~ court, the clerk ~~shall~~ must tax the costs and ~~shall~~ allow such items as are taxable under law. Costs taxed by the clerk ~~shall~~ will be included in the judgment or decree.

(d) **Judicial Review.** Taxation of costs by the clerk is subject to review by the court if, ~~pursuant to~~ under Fed. R. Bankr. P. 7054(b), a motion for review is filed within ~~five~~ 5 days ~~of the~~ after entry ~~on the docket~~ of the clerk's action.

RULE 7055-1

DEFAULT - FAILURE TO PROSECUTE

L.R. 7055-1:

Title: The title has not changed.

Text:

- (a) Subsection (a) has been amended to delete the first sentence as unnecessary in light of Local Rule 5003-1(a)(1). Cross references to applicable procedural rules have been expanded, and all other changes are stylistic.
- (b) Subsection (b) has been amended to delete the sentence related to notice, because it is unnecessary in light of Fed. R. Civ. P. 55(b)(2). All other changes are stylistic.
- (c) Subsection (c) has been amended to delete the reference to the standard applicable to review of the clerk's actions as unnecessary.

(a) **Judgment by Default Entered by Clerk.** ~~Judgment by default may be signed and entered by the clerk in such circumstances as are specified in accordance with Fed. R. Bankr. P. 7055. The A proposed judgment by default filed in accordance with Fed. R. Bankr. P. 7055 for signature and entry by the clerk in accordance with that rule and Local Rule 5003-1(a)(1) must be accompanied by an affidavit declaration~~ that the person against whom judgment is sought is neither an infant or an incompetent person, nor in the armed forces within the meaning of the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. § 520(1).

(b) **Judgment by Default Entered by Court.** In all other cases, the party entitled to a

judgment by default ~~shall~~must apply ~~therefor~~ to the court in accordance with Fed. R. Bankr. P. 7055. Upon application of any party, the clerk may make and file a certificate of default as to any party in default, for the convenience of the court or of the party applying for the default judgment. When ~~the~~ application is made to the court ~~under Fed. R. Bankr. P. 7055 for default judgment~~, unless the court orders otherwise, the scheduling clerk, upon request of the ~~movant~~moving party shall set a, must schedule an evidentiary hearing ~~for the taking of evidence before the court~~. If the party against whom judgment by default is sought has appeared in the proceeding, the party seeking the default shall give ~~due~~ notice of the hearing to ~~counsel the~~ attorney for the party as required by Fed. R. Bankr. P. 7055. With leave of the court, proof may be submitted by ~~affidavit~~declaration, but the court may order such further hearing ~~as appears proper~~at its discretion.

(c) **Clerk's Action Reviewable.** The actions of the clerk under this rule may be reviewed, suspended, altered or rescinded by the court ~~upon good cause shown~~.

RULE 7056-1

SUMMARY JUDGMENT

L.R. 7056-1:

Title: The title has not changed.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Stylistic changes have been made to subsection (b).
- (c) Subsection (c) has been amended to specify that the length of a movant's discretionary reply memorandum is limited to no more than 5 pages. All other changes are stylistic.

(a) **Fact Statement.** A memorandum in support of a motion for summary judgment ~~shall~~ **must** begin with a section that contains a concise statement of material facts as to which movant contends no genuine issue exists. The ~~facts shall be numbered~~ **movant must number the factual statements** and ~~shall~~ refer with particularity to ~~those~~ portions of the record ~~upon which movant relies supporting the motion.~~

(b) **Contested Facts.** A memorandum in opposition to a motion for summary judgment ~~shall~~ **must** begin with a concise statement of material facts to which the party contends there is a genuine issue. ~~E~~ **The responding party must number** each disputed fact ~~shall be numbered, shall~~ refer with particularity to ~~those~~ portions of the record upon which the party relies, and, if applicable, ~~shall~~ state the paragraph number of movant's disputed fact. ~~All m~~ **Material** facts of record that are set forth with particularity in movant's statement of facts and that meet the requirements of Fed. R. Bankr. P. 7056 ~~shall~~

~~be deemed~~are admitted for the purpose of summary judgment unless specifically controverted by the statement of the opposing party.

(c) **Filing Deadlines, Length of Memoranda and Reply Memoranda.** A memorandum opposing a motion for summary judgment ~~shall~~ must be filed and served within ~~thirty~~30 days after service of the motion. Memoranda supporting or opposing a motion for summary judgment ~~shall~~must not exceed ~~twenty-five~~25 pages in length, exclusive of face sheet, table of contents, statements of issues and facts, and exhibits. At movant's discretion, a reply memorandum of no more than 5 pages may be filed and served within ~~ten~~10 days after service of the opposing memorandum. A reply memorandum must be limited to rebuttal of matters raised in the opposing memorandum. No additional memoranda will be considered without leave of court. The time limitations set forth in this rule may be modified by the court.

RULE 7067-1

REGISTRY FUND

L.R. 7067-1:

Title: The title has not changed.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Subsection (b) has been amended to delete the reference to Treasury Circular 176 to avoid the rule becoming out of date. All other changes are stylistic.
- (c) Subsection (c) has been modified to require an additional copy of the order related to deposits to be provided to the court's financial department. All other changes are stylistic.
- (d) Stylistic changes have been made to subsection (d).
- (e) Stylistic changes have been made to subsection (e).
- (f) Stylistic changes have been made to subsection (f).
- (g) Subsection (g) has been modified to delete the reference to a specific time that a party should verify that funds have been invested as ordered. Proposed subsection (h) contains a 10-day verification time for purpose of limiting the clerk's liability. All other changes are stylistic.
- (h) Subsection (h) has been amended to impose a 10-day period for a party to verify that funds have been invested as ordered. All other changes are stylistic.
- (i) Subjection (i) has been amended to clarify that the agreement filed thereunder is between the person supplying the cash and the party for whom the bond is posted, and must set for the intended disposition of the cash deposit. All other changes are stylistic.

- (h) The rule is modified to fix a 10 day period for a party to verify that funds are deposited correctly.
- (i) The subsection is modified to reflect that the party for whom the bond is posted shall set for the intended disposition of the cash deposit upon release of the funds.

(a) **Court Orders Relating to Deposits.** Any party ~~seeking to make~~making a deposit ~~pursuant to~~under Fed. R. Bankr. P. 7067 in an adversary proceeding or a deposit in a case, ~~shall make~~key application~~apply~~ to the court for an order to invest the funds in accordance with ~~the following provisions of~~ this rule.

(b) **Registry Funds Invested in Interest-Bearing Accounts.** Upon motion and ~~pursuant to Fed. R. Civ. P. 67 and~~in accordance with Fed. R. Bankr. P. 7067 or other authority, the court may order the clerk to invest certain registry funds in an interest-bearing account or instrument. When guaranteed government securities are purchased, regardless of the amount invested, the funds require no posting of collateral. All other investments ~~will~~must be collateralized in accordance with ~~the Department of Treasury Circular 176's regulations. Such orders~~The order must also ~~shall~~ specify the following:

- (1) the amount to be invested;
- (2) the length of time the funds should be invested and, where applicable, whether they should be reinvested in the same account or instrument upon maturity;
- (3) the name(s) and address(es) and social security number(s) or tax identification number(s) of the designated beneficiary(ies); and
- (4) ~~such~~ other information that ~~may be deemed~~is appropriate under the ~~facts and~~

circumstances ~~of the case or proceeding.~~

(c) **Service ~~upon~~ Upon the Clerk.** ~~Parties obtaining an order as described in subsection (a) of this rule shall cause a~~ A copy of the order ~~to~~ must be served personally upon the clerk or chief deputy clerk, ~~with an additional copy provided to the court's financial department.~~

(d) **Deposit of Funds.** The clerk ~~shall~~ must take all reasonable steps to deposit funds into the specified accounts or instruments within, but not more than, ~~fifteen~~ 15 business days after ~~having been served with service of~~ a copy of the order ~~as provided in subsection (a) of this rule.~~

(e) **Disbursements of Registry Funds.** ~~Any~~ party seeking a disbursement of ~~such~~ funds ~~shall~~ must prepare an order for the court's review and signature and ~~shall~~ must serve the signed order upon the clerk or chief deputy clerk. ~~Where~~ If applicable, ~~such~~ the orders should indicate whether, when released by the court, the instruments of investment should be redeemed subject to possible early withdrawal penalties or held until the maturity date. The clerk or chief deputy clerk ~~shall~~ must prepare the withdrawal documents ~~pursuant to~~ under ~~such~~ the order.

(f) **Management and Handling Fees.** ~~Funds invested into accounts or instruments that fall under the purview of subdivision (b) of this rule, unless~~ Unless otherwise negotiated by the parties, ~~funds invested under subsection (b) of this rule;~~ will be subject to routine management fees imposed by the financial institution and deducted at the time the accounts are closed or the instruments redeemed. In addition, ~~pursuant to~~ under the miscellaneous fee schedule approved by the Judicial Conference of the United States as set forth in ~~28 U.S.C. § 1930 of title 28 of the United States Code,~~ the clerk ~~shall~~ must assess a "Registry Fund Fee." ~~Such~~ The fee is to be determined and promulgated by the Director of the Administrative Office of the United States as authorized by the Judicial Conference of the United States.

(g) **Verification of ~~Deposit~~Investment.** Any party that obtains an order directing the investment of funds by the clerk ~~shall~~should verify, ~~fifteen days after service of the order as provided by subsection (c) of this rule,~~ that the funds have been invested as ordered.

(h) **Liability of the Clerk.** Failure of a ~~ny party~~or parties to personally serve the clerk or chief deputy clerk with a copy of the order, or failure to verify investment of the funds ~~within~~10 days after the expiration of the time period set forth in subsection (d) of this rule, ~~shall~~will release the clerk from any liability for the loss of earned interest on such funds.

(i) **Cash Bonds.** ~~In all instances where~~If a person other than a party posts a cash bond with the clerk, the party for whom the bond is posted ~~shall~~must execute and file an agreement with such person setting forth the ~~intended~~ disposition of ~~such~~the cash deposit by the clerk ~~following exoneration of the terms~~upon release of the cash bond. No deposit of funds will be allowed unless an order allowing or requiring it has been entered.

RULE 7069-1

~~JUDGMENT - PAYMENT OF~~EXECUTION OF JUDGMENT

L.R. 7069-1:

Title: The title has been amended for stylistic reasons.

Text:

- (a) Subsection (a) has been modified to be applicable to judgment creditors, rather than any party having a judgment, to be consistent with Fed. R. Bankr. P. 7069.
- (b) Subsection (b) has been amended to make stylistic changes, including changes consistent with the amendment to subsection (a).
- (c) Subsection (c) has been amended to make clear that a motion under subsection (b) may be made ex parte.
- (d) Stylistic changes have been made to subsection (d).
- (e) Stylistic changes have been made to subsection (e).

(a) **Domestication of Judgment.** ~~The party having filed a final judgment of the court shall, whenever possible, domesticate the final~~A judgment creditor should domesticate a judgment in the appropriate state court and execute upon the judgment utilizing state law remedies whenever possible.

(b) **Motion to Appear.** ~~Any party having a final~~A judgment creditor who holds a judgment of the court which~~that~~ cannot be domesticated under state law may ~~make a motion~~move to ~~have~~compel the judgment debtor, or other person in possession of or having information relating to property or other assets that may be subject to execution or restraint, to appear in court and answer questions concerning ~~such~~the

property or assets. The ~~moving party~~ movant, on proper affidavit declaration, may request that the judgment debtor or other person be ordered to refrain from alienation or disposition of the property or assets in any way detrimental to the ~~moving party's~~ movant's interest.

(c) **Hearing before Before Bankruptcy Court Judge.** ~~The~~A motion under subsection (b) of this rule ~~shall~~ may be presented to a ~~bankruptcy~~the court judge ex parte, and, if granted, ~~and~~ the matter calendared for hearing, ~~to require~~at which the judgment debtor or other person ~~to~~must appear to be examined. In any case in which the ~~moving party~~movant seeks a restraint of the judgment debtor ~~or other person's property~~, the ~~bankruptcy judge shall~~court must make findings and a report for the district court judge with a proposed order for restraint which the district court judge may issue.

(d) **Failure to Appear.** Should the judgment debtor or other person fail to appear as directed, the ~~bankruptcy~~ court judge may issue such process as is necessary and appropriate, including arrest, to bring the person before the court. If the conduct of the non-responding person is contemptuous, a proper reference ~~shall~~must be made by the ~~bankruptcy~~ court judge to the district court judge ~~to whom the matter has been assigned~~.

(e) **Fees and Expenses.** The ~~moving party shall~~movant must tender a witness fee and mileage or equivalent to any person, with the exception of the judgment debtor, who, under this rule is required to appear in court.

RULE 9004-2-1

CAPTION - PAPERS, GENERAL

L.R. 9004-2:

Title: The number of the rule has been changed from “9004-2” to “9004-1” because there currently is no “9004-1.”

Text:

- (a) Subsection (a) has been amended to delete the listing of matters contained in the pleading, and instead references Official Forms 16A and 16B. The debtor’s social security number should be listed consistent with this Local Rule, unless superseded by the Official Forms. A facsimile number and e-mail address of the party submitting the pleading will be required in the upper left-hand corner of the pleading. The caption is changed to reflect the name of the debtor, rather than the name of the case, and references 11 U.S.C. § 342(c) for guidance. If a paper is filed electronically, the caption should so note. All other changes are stylistic.
- (b) Stylistic changes have been made to subsection (b).

(a) **General.** ~~All~~ ~~The caption of~~ papers filed ~~with the court~~ or served after the commencement of a case or ~~adversary~~ proceeding ~~shall be properly captioned with the case number, a designation of the chapter under which the case is proceeding at the time the paper is filed, and, where applicable, the adversary proceeding number~~ must substantially conform to Official Forms 16A and 16B, as follows:

~~Counsel~~Attorney Submitting (Utah State Bar No.)
Attorney for
Address

Telephone No.
~~Fax~~ Facsimile No.
E-Mail Address

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH
_____ DIVISION

Name of Case Debtor	Bankruptcy Case No. _____
Address [see 11 U.S.C. § 342(c)]	Chapter ____
SSN/Tax ID #	Filed Electronically [if applicable]
Name of Adversary	Adversary Proceeding No. ____ [if applicable]
Proceeding [if applicable]	Title of Document (Option 1)

Title of Document (Option 2)

(b) **Title.** The title of each paper ~~filed with the court and served, as required by subsection (a) of this rule, shall show~~ **must** designate the nature of the paper and ~~on whose behalf it is served or~~ **include a reference to who** filed it.

RULE 9006-1
TIME PERIODS

L.R. 9006-1:

Title: The title has not changed.

Text:

- (a) Subsection (a) has been modified to delete the reference to Fed. R. Bankr. P. 9006(d) as unnecessary. The time for serving motions has been reduced from 18 to 15 days. All other changes are stylistic.
- (b) Subsection (b) has been modified to delete the reference to Fed. R. Bankr. P. 9006(d) as unnecessary. The remainder of the changes are stylistic.
- (c) Subsection (c) is new and clarifies that 3 days must be added to the prescribed period if papers are served by mail, facsimile or electronic means to conform to Fed. R. Bankr. P.

(a) **Time for Filing Motions.** Pursuant to the court's authority under Fed. R. Bankr. P. 9006(d), any ~~A written~~ motion and notice of hearing in ~~an adversary~~ a case or proceeding ~~or bankruptcy case~~, which is not to be heard ex parte, ~~shall~~ must be served at least ~~eighteen~~ 15 days before the date set for ~~such~~ the hearing, unless a different period is fixed by order of the court, by the Federal Rules of Bankruptcy Procedure, or by these Local Rules. ~~An application~~ motion for an order fixing a different period may, for cause shown, be made ~~on ex parte application~~ to the court ~~on an ex parte basis~~.

(b) **Briefing Schedule.** Pursuant to the court's authority under Fed. R. Bankr. P. 9006(d), ~~i~~In matters not governed by Fed. R. Bankr. P. 4001(a) or 7056, ~~responsive memoranda shall~~ objections and other responses must be filed and served not later than ~~fifteen~~ 15 days after service of a motion and in no case less than ~~three~~ 3 business days before the date set for the hearing, or ~~if~~ served by ~~U.S.~~ mail, first class postage prepaid, no less than ~~four~~ 4 business days before the date set for the hearing. At movant's discretion, a reply memorandum may be filed no less than ~~three~~ 3 business days before the date set for the

hearing. ~~If~~**The** movant ~~desires to file a reply memorandum, movant shall~~**must** schedule a hearing sufficiently in advance to assure that all memoranda are filed no less than ~~three~~**3** business days before the date set for hearing. The time limitations set forth ~~herein~~**in this Local Rule** may be modified by the court.

(c) Additional Time After Service by Mail, Facsimile or Electronic Means. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party under Fed. R. Civ. P. 5(b)(2)(B), (C), or (D), 3 days must be added to the prescribed period.

RULE 9010-1
ATTORNEYS - NOTICE OF APPEARANCE

L.R. 9010-1:

Title: The title has not changed.

Text:

- (a) Stylistic changes have been made to subsection (a), including the deletion of the reference to pro se parties.
- (b) Stylistic changes have been made to subsection (a), including the deletion of the reference to pro se parties.
- (c) Subsection (c) has been amended to be applicable to attorney withdrawal as well as substitution. All other changes are stylistic.

(a) **Attorney of Record.** ~~The filing of a case or of any pleading, unless otherwise specified, shall constitute.~~ An attorney, or a party not represented by an attorney, who signs and files a petition, pleading or paper, is deemed to have made an appearance ~~by the person who signs such pleading, and such person shall be considered counsel or party pro se of record in that~~ matter. If an attorney's appearance has not been established previously by the filing of papers in the case or proceeding, ~~such~~ the attorney ~~shall~~ must file ~~with the clerk~~ a notice of appearance promptly upon undertaking the representation of any party or witness ~~in any court~~. An attorney of record ~~shall be deemed~~ is responsible in all matters respecting ~~such~~ the case or proceeding before and after a judgment, until the closing of the case, ~~or~~ until the time for appeal from a judgment or order has expired or a judgment or order has become final after appeal, or until there has been a formal withdrawal ~~from by~~ or substitution of the attorney in the case or proceeding.

(b) **Notification of Change in Address or Telephone Number.** In all cases and ~~adversary~~ proceedings, ~~counsel~~attorneys and parties appearing ~~pro se shall~~ without an attorney must notify the clerk's office of any change in address or telephone number.

(c) **Appearance by Attorney.** ~~Whenever a~~A party ~~who~~ has appeared by an attorney, ~~that~~ party ~~cannot~~ ~~may not~~ appear or act thereafter in its own behalf in the action or take any steps therein, unless an order of ~~withdrawal or~~ substitution ~~first shall have been~~is entered by the court after notice to the party's attorney and to parties in interest. However, notwithstanding that a party has appeared or is represented by an attorney, at its discretion, the court may hear a party in open court. ~~The~~An attorney who has appeared of record for any party ~~shall~~must:

- (1) represent ~~such~~the party in the action;
- (2) be recognized by the court and by all parties to the action as having control of the client's case; and
- (3) sign all papers that are to be signed on behalf of the client.

RULE 9011-1
PAPERS SIGNED BY AN ATTORNEY

L.R. 9011-1:

Title: The title is new.

Text: This rule is new, but its content is not. This language appears in the last sentence of current rule 2090-1(b). The language has been moved to this rule because Fed. R. Bankr. P. 9011 governs the signing of papers filed with the court.

Any paper required to be signed by an attorney that is not signed by an attorney admitted to practice before this court under Local Rule 2090-1 may be stricken.

RULE 9011-2

~~PRO SE~~ PARTIES APPEARING WITHOUT AN ATTORNEY

L.R. 9011-2:

Title: The title has been changed to conform with stylistic changes omitting references to a “pro se” party.

Text:

- (a) Subsection (a) has been amended to exclude all provisions related to rules applicable to parties appearing without an attorney, because those provisions have been moved to subsection (b), which currently deals that topic. Thus, subsection (a) as amended will solely define what entities must appear through an attorney. The content of this rule is the same as the first sentence of current subsection (a) with some stylistic changes. The subtitle has been modified to reflect this change.
- (b) Subsection (b) has been amended to add the last two sentences of current subsection (a), with some stylistic changes. The subtitle has been amended to reflect the contents of the amended rule. As amended, all of the rules applicable to parties appearing without an attorney will be stated in one subsection, as opposed to being included in both current

(a) **Pro Se Representation Attorney Appearance Required**. A corporation, partnership, ~~limited liability company~~, or unincorporated association may not file a petition or otherwise appear ~~pro se~~ without an attorney in any case or ~~adversary~~ proceeding. ~~Any party proceeding on his or her own behalf without an attorney shall comply with these Local Rules. Any obligation imposed on counsel for a party by any applicable rule applies to parties appearing pro se.~~ Failure to comply with this rule ~~may be~~ is grounds for dismissal of a case or proceeding, conversion of a case, appointment of a trustee or examiner, judgment by default, or other appropriate sanctions.

(b) **Standards of Professional Conduct Rules Applicable to Individuals Appearing Without an Attorney**. ~~All pro se parties shall be governed by and shall~~ An individual appearing without an attorney ~~must~~ comply with ~~the rules of practice adopted by this court~~ these Local Rules and, unless

otherwise provided, with the Utah Rules of Professional Conduct, as revised and amended, and the decisions of this court interpreting those rules and standards. Any obligation imposed on an attorney by any applicable rule applies to parties appearing without an attorney. Failure to comply with this rule may be grounds for dismissal of a case or proceeding, conversion of a case, appointment of a trustee or examiner, judgment by default, or other appropriate sanctions.

RULE 9013-1
MOTION PRACTICE

L.R. 9013-1:

Title: The title has not changed.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Subsection (b) has been amended to add a reference to Official Form 20A as the proper form of notice, and to require that the notice state the time within which objections must be filed. All other changes are stylistic.
- (c) Subsection (c) has been amended to state that a responding party must file its response. If no response is filed, the movant must so indicate by application or declaration when submitting an order granting the relief sought. All other changes are stylistic.
- (d) Subsections (d)(1) through (d)(6) contain various stylistic changes. Subsection (d)(3) has been modified to delete the reference to when and where the clerk's opinion index is available as unnecessary.
- (e) Subsection (e) has been modified to limit the requirement to file courtesy copies to those memoranda that exceed 10 pages in length.
- (f) Subsection (f) contains stylistic changes.
- (g) New subsection (g) contains the requirements currently found in Local Rule 9013-3, which has been deleted in the proposed amendments, with some stylistic changes.
- (h) New subsection (h) provides procedures for service by electronic means. The new subsection is patterned after Rule 9 of the Model Local Bankruptcy Court Rules for Electronic Case filing approved by the Judicial Conference of the United States.

(a) **Scope of Rule.** This rule applies to motions in bankruptcy cases and adversary proceedings. The term “motion” ~~shall also~~ means application, request, or other proceeding in the nature of a motion or contested matter in which a party in interest seeks an order from or determination by the court. The term “motion” ~~shall~~ does not refer to a summons, complaint, appeal, or an ex parte motion.

(b) **Motions.** The movant ~~shall~~ must file the original motion with the clerk ~~subject to~~ within any applicable time limitation, including the time limitations of these Local Rules, ~~unless the court orders otherwise.~~ ~~Motions shall~~ A motion must set forth succinctly, without argument, the specific relief sought. The movant must give notice of the motion using Official Form 20A, with alterations as may be appropriate to comply with these Local Rules. The notice must state that objections must be filed and served not later than 15 days after service of the motion.

(c) **Response to Motions.** ~~The original response to a motion shall be filed with the clerk or presented to the court, subject to~~ A party responding to a motion must file a response within any applicable time limitation, including the time limitations of these Local Rules. A response ~~to a motion shall~~ must set forth succinctly, but without argument, the response, including objections, to the motion. ~~If an objection is not timely filed, the court may grant the relief requested without a hearing. A party submitting an order where no objection has been filed to the motion must submit an application or declaration of noncompliance with the motion stating that there has been no objection filed or served on the movant.~~

(d) **Memorandum of Authorities.** A motion or a response to a motion may be supported by a memorandum of legal authorities subject to the following requirements.

(1) **Concise Memorandum.** A memorandum ~~shall be concise and~~ must concisely state each basis supporting the motion or response with citations to applicable and controlling legal authority.

(2) **Length of Memorandum.** A memorandum ~~supporting or opposing all motions, except those,~~ other than for summary judgment, ~~shall~~ must not exceed ~~fifteen~~ 15 pages ~~in length,~~ exclusive of face sheet, table of contents, statements of issues and facts, and exhibits. The procedure for filing an overlength memorandum is set forth in subsection (f) of this rule.

(3) **Citations of Unpublished Decisions.** A memorandum may ~~contain~~ cite ~~to an~~ unpublished decisions from this district, but only ~~such unpublished decisions are~~ if the decision is

furnished to the court and ~~to responding parties in interest or their counsel~~ when the memorandum is filed. Unpublished opinions from other districts ~~shall~~may not be cited as authority. Unpublished decisions of this court should be cited as follows: *Smith v. Jones (In re Smith)*, Ch. 7 Case No. 93B-02404, Adv. No. 94PC-2302, slip op. at 10 (Bankr. D. Ut. March 1, 1995). The clerk maintains ~~a chronological~~an index ~~and copies~~ of selected, unpublished opinions from this district. ~~The index and copies of the opinions may be reviewed at the clerk's office during the hours of business set forth in Rule 5001-2(b) of these Local Rules.~~

(4) Citations of Supplemental Authority. When pertinent and significant authorities come to the attention of a party after a memorandum has been filed, or after oral argument but before the court renders a decision, a party may ~~promptly~~ advise the court by letter, with a copy to all ~~counsel parties~~, setting forth the citations. The letter ~~shall~~must, without argument, state the reason for the supplemental citations and include a reference either to the page of the memorandum or to a point argued orally to which the citations pertain. Any response ~~shall~~must be promptly made and ~~shall be~~ similarly limited.

(5) Reply Memorandum. A reply memorandum ~~shall be~~is limited to rebuttal of matters raised in the responsive memorandum.

(6) Limitation on Memoranda Considered. Unless otherwise ordered, the court ~~shall~~will consider only: memoranda filed with motions, responsive memoranda filed by parties in interest, and reply memoranda filed by the movant(s).

(e) Courtesy Copies. Two courtesy copies of each memorandum ~~filed with the court that~~ exceeds 10 pages in length ~~shall~~must be delivered to the chambers of the judge assigned to the case at least ~~three~~3 days before the time set for hearing on the motion, or at the time the memorandum is filed, if ~~by leave of court~~ the same is filed less than ~~three~~3 days prior to the hearing on the motion. The front page of all courtesy copies ~~shall~~must indicate the date and time of the relevant hearing.

(f) Overlength Memoranda. An order of the court must be obtained to file a memorandum that exceeds the page limitations set forth in subsection (d) of this rule. Such a motion may be made to the court ex parte, and must include a statement of why additional pages are needed and the number of pages. The court will approve ~~such~~the requests ~~only~~ for good cause shown. Authorized, overlength memoranda

~~shall~~ must contain the following:

- (1) a table of contents, with page references, setting forth the titles or headings of each section and subsection;
- (2) a statement of the issues related to the precise relief sought;
- (3) a concise statement of facts, with appropriate references to the record, relevant to the issues concerning the precise relief sought;
- (4) argument, proceeded by a summary, containing the contentions of the party with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, and parts of the record relied on; and
- (5) a short conclusion stating the precise relief sought.

(g) **Certificate of Service.** Unless otherwise ordered, a party must file a certificate of service of a motion or other paper required to be served on other parties. The certificate must be filed with the motion, endorsed upon the motion, or filed separately as soon as possible and in any event before any action based upon the service is requested or taken by the court. The certificate must show the date, place, and manner of service, and the names and addresses of the parties receiving the service.

(h) **Service of Documents by Electronic Means.** A Filing User who electronically files a pleading or other document must transmit a “Notice of Electronic Filing” to parties entitled to service or notice under the Federal Rules of Bankruptcy Procedure and these Local Rules. The “Notice of Electronic Filing” must be transmitted by e-mail, hand, facsimile, contract carrier, or by first class mail postage prepaid. Electronic transmission of the “Notice of Electronic Filing” constitutes service or notice of the filed document. A Filing User may use the court’s Electronic Filing System to effectuate service on those parties who have consented to electronic service. Parties who have not consented to electronic notice or service are entitled to receive a paper copy of any electronically filed pleading or other document. Service or notice must be made according to the Federal Rules of Bankruptcy Procedure and these Local Rules. Persons who wish to receive electronic notice should register as a Filing User.

RULE 9013-3
CERTIFICATE OF SERVICE - MOTIONS

L.R. 9013-3:

Title: The title has been deleted.

Text: The rule has been edited and moved to L.R. 9013-1 as new subsection (g), rather than being set forth separately. The modifications to the relocated rule delete the reference that the certificate may be made by an attorney of record, associate or employee, or by return receipt of the U.S. Postal Service, as unnecessary.

~~Except as otherwise provided by order of the court or by rule, proof of service of any pleading, motion, or other paper required to be served shall be made by the certificate of an attorney of record or an associate or employee thereof or by a properly endorsed return receipt of the U.S. Postal Service. Unless otherwise ordered, a party must file a certificate of service of a motion or other paper required to be served on other parties. Such~~The certificate ~~or receipt shall~~ must be filed with the ~~pleading~~ motion or paper ~~served, shall be~~ endorsed upon the ~~pleading~~ motion or paper ~~served, or shall be~~ filed separately as soon as possible and in any event before any action based upon the service is requested or taken by the court. The ~~proof of service shall~~ certificate must show the date, place, and manner of service, and the names and addresses of the parties receiving the service.

RULE 9014-1
DISCOVERY IN CONTESTED MATTERS

L.R. 9014-1:

Title: The title is new.

Text: This rule is new, but its content is not. The content of the rule is currently found in Local Rule 7026-1(a)(1). It has been moved to a separate rule to make clear that Fed. R. Bankr. P. 7026 applies primarily in adversary proceedings, but may be applied in contested matters.

At the request of any party in interest, or on the court's own motion, the court may order that Fed. R. Bankr. P. 7026 applies to a contested matter.

RULE 9015-1

JURY TRIAL

L.R. 9015-1:

Title: The title has not changed.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Subsection (b) has been modified to cross-reference the applicable District Court rule.
- (c) Subsection (c) has been amended to include the additional condition set forth in the District Court rules requiring a jury trial to only be conducted by a bankruptcy judge who has been specially designated to do so. The balance of the modifications are stylistic.

(a) **Demand.** Where a jury trial is demanded in or by endorsement upon a pleading as permitted by the Federal Rules of Civil Procedure, the words “JURY DEMANDED” ~~shall~~ **should** be typed in capital letters on the first page immediately below the title of the pleading.

(b) **Applicable Rules.** Fed. R. Civ. P. 38,–39, 47-51 and 81(c), insofar as they pertain to jury trials, **and DUCivR 83-7.5** apply in cases and proceedings, except that a jury demand made under Fed. R. Civ. P. 38(b) ~~shall~~ **must** be filed in accordance with Fed. R. Bankr. P. 5005.

(c) **Consent to have Trial Conducted by Bankruptcy Judge.** If the right to a jury trial applies ~~and~~, a timely demand has been filed under Fed. R. Civ. P. 38(b), **and the bankruptcy judge has been specially designated to conduct the jury trial**, the parties may consent to have a jury trial conducted by a bankruptcy judge under ~~28 U.S.C. § 157(e) of title 28 of the United States Code~~ by jointly or separately filing a statement of consent no later than: (1) the time for filing the Report of Parties’ Planning Meeting ~~pursuant to~~ **under** Fed. R. ~~Civ. P. 26(f), Fed. R.~~ Bankr. P. 7026 and **Local** Rule 7016-1(b) ~~of these Local Rules~~; or (2) if a motion for withdrawal of reference is filed after ~~such~~ **the** demand, within ~~ten~~ **10** days after

service of the motion for withdrawal of reference. ~~The f~~Failure to file ~~such~~a consent ~~shall~~ constitutes an objection by opposing party to a jury trial in the bankruptcy court.

~~RULE 9016-2~~

~~WITNESSES~~

L.R. 9016-2:

Title: The title has been deleted.

Text: The rule has been deleted as unnecessary. The deletion should not be viewed as an expression that exclusion of witnesses is disfavored.

~~(a) **Exclusion of Witnesses.** At the request of a party, or on its own motion, the court shall order witnesses excluded from the courtroom so that they cannot hear the testimony of other witnesses. By reason of the inconvenience of exclusion and delays that are encountered thereby, counsel are encouraged not to make requests for exclusion routinely but only when a vital purpose will be served. See Fed. R. Evid. 615. The excluded witnesses need not be sworn in advance but may be ordered by the court not to discuss his or her testimony with anyone except counsel during the progress of the case.~~

~~(b) **Exceptions to Exclusion of Witnesses.** This rule does not authorize exclusion of: (1) a party who is not a natural person; (2) an officer or employee of a party that is not a natural person, who is designated as its representative by its attorney; or (3) a person whose presence is shown by a party to be essential to the presentation of the case.~~

~~(c) **Witnesses who have Testified.** Unless directed otherwise by the court for special reasons, witnesses who have testified may remain in the courtroom even though they may be recalled on rebuttal.~~

~~(d) **Witness Excused on Motion.** Unless directed otherwise by the court, upon motion of counsel, witnesses, once examined and permitted to step down from the stand, shall be deemed excused.~~

RULE 9019-1

SETTLEMENTS ~~AND AGREED ORDERS~~ OF ADVERSARY PROCEEDINGS

L.R. 9019-1:

Title: The title of the rule is modified to clarify that the rule deals with settlement of adversary proceedings, rather than agreed orders in contested matters.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Stylistic changes have been made to subsection (b).

(a) **General.** ~~Any~~The parties should file a written settlement ~~of a matter should be filed with the court~~ agreement not less than ~~three~~3 business days before ~~the~~a related hearing ~~on the matter~~. Unless good cause is shown, ~~where a settlement is made if the parties settle a matter~~ less than ~~three~~3 business days before ~~the~~a related hearing, the court may assess costs equally to the parties including, ~~but not limited to,~~ court costs, reporter costs, and the judge's travel costs and per diem, if any. The clerk ~~shall~~must bill the parties for the assessed costs and monitor the collection of ~~same~~ the costs for the court.

(b) **Settlement of Adversary Proceeding with Trial Date.** In any ~~any~~ adversary proceeding for which a trial date has been scheduled, the parties ~~shall~~must immediately notify the court of any settlement agreement ~~reached by the parties which resolves the litigation as to any or all of the parties that resolves all or part of the proceeding~~. Parties who fail to give adequate notice of the cancellation of a trial date may be assessed costs. Whenever a civil action scheduled for jury trial is settled or otherwise disposed of by agreement in advance of the trial date, jury costs paid or incurred may be assessed against the parties and their attorneys as directed by the court. Jury costs ~~shall~~may include attendance fees, per diem, mileage and

parking. ~~No~~^jJury costs ~~shall~~^{will not} be assessed if notice of settlement or disposition of the case is given to the Jury Administrator of the District Court Clerk's Office at least ~~one~~¹ full business day prior to the scheduled trial date.

RULE 9019-2
ALTERNATIVE DISPUTE RESOLUTION ~~(ADR)~~

L.R. 9019-2:

Title: The title contains stylistic changes.

Text: The rule is modified to cross-reference the District Court ADR Program rules. The remainder of the modifications are stylistic.

Upon agreement and motion of all parties ~~to an adversary proceeding~~, the court may refer ~~the~~ an ~~adversary~~ proceeding to the ~~district court's~~ Alternative Dispute Resolution Program (“ADR Program”) for mediation ~~pursuant to the provisions of the district court's applicable local rules~~ under ~~DUCivR 16-2~~. The motion may be made at the initial pretrial conference or at any other time. An adversary proceeding referred to the ADR Program ~~shall~~ will remain under the jurisdiction of the ~~bankruptcy~~ court for all purposes, including the entry of any order granting a motion to approve a stipulation resolving the adversary proceeding, dismissing the adversary proceeding or withdrawing the referral to the ADR Program.

RULE 9021-1

~~JUDGMENTS AND ORDERS - ENTRY OF~~

PREPARATION AND SUBMISSION OF JUDGMENT OR ORDER

L.R. 9021-1:

Title: The title contains stylistic changes.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Current subsection (b) has been deleted and in its place a new subsection (b) entitled Review and Approval Procedures has been added to provide more precise direction about review and approval of both orders for which no hearing was held and orders announced in open court. The amended subsection allows orders announced in open court to be presented in open court, and sets forth on whom a prepared order must be served in both adversary proceedings and contested matters. The remaining changes to the rule are stylistic.
- (c) Current subsection (c) has been deleted because the text is now contained in new subsection (b)(1). In its place a new subsection (c) has been added entitled Entry of Court Orders to provide for electronic submission and entry of orders. The manner in which orders are to be delivered electronically will be covered by the court's posted usage protocols. The new rule provides for electronic signature on and entry of orders or judgments filed by electronic means.
- (d) Stylistic changes have been made to subsection (d).
- (e) Subsection (e) has been modified to eliminate the requirement to provide copies and envelopes.

(a) **Filing of Proposed Orders Separate Document Requirement.** Proposed orders ~~shall~~**must** be prepared and submitted as separate documents, not attached to or included in motions or other ~~pleadings~~**papers** filed with the court.

~~(b) **Orders in Open Court.** Unless otherwise determined by the court, orders announced in open court shall be prepared in writing by the prevailing party, served upon opposing counsel whether or not a response is filed or an appearance is made at the hearing, and submitted to the court for signature pursuant to the provisions of subsection (c) of this rule.~~

(b) Review and Approval Procedures.

(1) **Preparation, Service and Approval.** Unless otherwise provided herein or directed by the court, each proposed order and judgment should be prepared in writing by the attorney for the prevailing party, and must be served upon each opposing attorney for review and approval as to form prior to being submitted to the court for review and signature. Approval shall be deemed granted if no objection to the proposed order or judgment is filed within 5 days after personal service or 8 days after service by mail or electronic means.

(2) **Service and Approval Exception.** Unless otherwise directed by the court, the service and approval requirements set forth in subsection (1) do not apply to

(A) any proposed order or judgment on a matter that does not require a hearing and is uncontested, or

(B) any proposed order or judgment submitted in open court at the time of the hearing on the matter to which the proposed order or judgment applies.

(3) **Post Hearing Submission in Adversary Proceeding.** If not submitted in open court at the time of a hearing, an order or judgment arising from a ruling made in open court in an adversary proceeding must be prepared by the attorney for the prevailing party and served as required by subsection (1) upon each attorney appearing in the adversary proceeding, regardless of whether such attorney filed a response to the matter or appeared at the hearing.

(4) **Post Hearing Submission in Contested Matter.** If not submitted in open court at the time of a hearing, an order or judgment arising from a ruling made in open court in a contested matter must be prepared by the attorney for the prevailing party, but need only be served, as

required by subsection (1), upon each attorney who either filed a written response to the matter or appeared at the hearing. If the contested matter is in a Chapter 12 or 13 case, a copy of the proposed order must be served upon the trustee.

~~(c) **Orders and Judgments.** Unless otherwise determined by the court, proposed orders and judgments prepared by an attorney shall be served upon opposing counsel for review and approval as to form prior to being submitted to the court for review and signature. Approval shall be deemed granted if no objections to the proposed order or judgement are filed within five days after personal service or eight days after service by mail.~~

(c) **Entry of Court Orders.** A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the court requires. All orders, decrees, judgments, and proceedings of the court, including orders submitted in open court, will be filed in accordance with these Local Rules, which will constitute entry on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021. All signed orders will be filed electronically by the court or court personnel. Any order that has been electronically signed by a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

(d) **Final Judgment bBased uUpon a Written Instrument.** Unless otherwise ordered by the court, a final judgment based upon a written instrument ~~shall~~ must be accompanied by the original instrument or a certified copy which ~~shall~~ must be filed as an exhibit in the case or proceeding at the time judgment is entered. The instrument ~~shall~~ must be ~~appropriately~~ marked as having been merged into the judgment, ~~shall~~ and show the docket number of the case or proceeding ~~action and~~. The instrument may be returned to the party filing ~~the same~~ it upon order of the court only as in the case of other exhibits.

(e) **Papers to Accompany Proposed Judgments, Orders or Notices of Appeal.**

(1) ~~Except as provided in subsections (2), and (3) below, A~~ any party ~~submitting~~ filing a proposed judgment, order, or notice of appeal ~~shall~~ must also file ~~therewith~~:

(A) ~~one photocopy to be conformed and returned to the proponent;~~

(B) ~~additional photocopies for each contesting party, including parties who filed written objections or other responsive pleadings to the proposed relief, as well as parties~~

~~present or represented at any hearing on the matter;~~

~~(C) an addressed, stamped envelope for each person who is to receive a copy of the judgment, order, or notice of appeal; and~~

~~(D) a completed mailing certificate of mailing prepared ready for signature by a deputy clerk use by the clerk.~~

~~(2) The requirements of subsections (1)(A) and (B) of this rule may be satisfied by filing a notice of entry of order (or judgment) with the appropriate number of copies and addressed, stamped envelopes thereof, rather than photocopies of the actual judgment or order. This will be preferable where the judgment or order is lengthy and the number of parties to whom it is to be mailed is large.~~

~~(3) The requirement of subsection (1) of this rule do not apply where the proposed judgment or order is ex parte or is based upon a stipulation of the parties.~~

RULE 9022-1

~~JUDGMENTS AND ORDERS - NOTICE OF~~ NOTICE OF JUDGMENT OR ORDER

L.R. 9022-1:

Title: The title contains stylistic changes.

Text: The rule has been amended to permit the clerk to provide a copy of a judgment or order by electronic means. The text of the amendment is patterned after Rule 10 of the Model Local Bankruptcy Court Rules for Electronic Case Filing approved by the Judicial Conference of the United States. The clerk must give notice in paper form to those who have not consented to electronic service. The parallel reference to Fed. R Civ. P. 77(d) has been deleted. The balance of the changes are stylistic.

~~The mailing by the clerk to attorneys of record or to parties appearing pro se of copies of orders or judgments~~ The clerk must mail or deliver by electronic means to the contesting parties, a copy of a judgment or order showing the date ~~such orders or judgments were entered by the clerk shall constitute notice of the entry of the order or judgment pursuant to Fed. R. Civ. P. 77(d) and~~ the judgment or order was entered in accordance with Fed. R. Bankr. P. 9022. Immediately upon the entry of an order or judgment in a case or proceeding assigned to the Electronic Filing System, the clerk will transmit to Filing Users in the case or proceeding, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022. The clerk must give notice in paper form to persons who have not consented to electronic service in accordance with the Federal Rules of Bankruptcy Procedure and these Local Rules.

RULE 9070-1

EXHIBITS

L.R. 9070-1:

Title: The title has not changed.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Stylistic changes have been made to subsection (b).
- (c) Stylistic changes have been made to subsection (c).

(a) Prior to Trial.

(1) Marking Exhibits. Prior to trial, each party ~~shall have~~ **should** marked ~~all the~~ exhibits ~~it intends to be~~ introduced during trial ~~by utilizing~~ **using** exhibit labels (stickers) obtained from the clerk. Plaintiffs ~~shall~~ use consecutive numbers; defendants ~~shall~~ use consecutive letters.

(2) Preparation for Trial. After completion of discovery and prior to the final pretrial conference, ~~counsel the~~ **attorneys** for each party ~~shall~~ **must**: (A) prepare and serve on opposing ~~counsel attorneys~~ a list that identifies and briefly describes all ~~marked~~ exhibits to be offered at trial; and (B) afford opposing ~~counsel attorneys~~ opportunity to examine ~~said the~~ exhibits. The ~~parties must list the~~ exhibits ~~also shall be listed~~ in the final pretrial order.

(b) During Trial.

(1) Custody of the Clerk. Unless the court orders otherwise, all exhibits that are admitted into evidence during trial, that are suitable for filing and transmission to the appellate court as a part of the record on appeal, ~~shall~~ **must** be placed in the custody of the clerk ~~of court~~.

(2) Custody of the Parties. Unless the court ~~otherwise~~ orders ~~otherwise~~, ~~any~~ other exhibits admitted into evidence during trial ~~shall~~ **must** be retained in the custody of the party offering ~~them~~ **it**. With approval of the court, photocopies may be substituted for ~~said the~~ exhibits once they

have been introduced into evidence.

(c) After Trial.

(1) Exhibits in the Custody of the Clerk. ~~Where~~If the clerk takes custody of exhibits pursuant to ~~under~~ subsection (b)(1) of this rule, ~~such~~the exhibits may not be taken from the custody of the clerk until final disposition of the matter, except upon order of the court and execution of a receipt that identifies the material taken, ~~which~~The receipt ~~shall~~must be filed in the case ~~or~~ proceeding.

(2) RemovalRetrieval from Evidence. With the permission of the clerk, parties ~~are to~~ ~~remove~~should retrieve all exhibits ~~in~~from the custody of the clerk within ~~thirty~~30 days after the expiration of the appeal period or after the mandate of the final reviewing court is filed. ~~Parties~~A party failing to comply with this rule ~~shall~~will be notified by the clerk to ~~remove~~~~their~~retrieve its exhibits and sign a receipt for them. ~~Upon their failure to do so within thirty days~~If the exhibits are ~~not timely retrieved~~, the clerk may destroy or otherwise dispose of them as the clerk may see fit.

(3) Exhibits in the Custody of the Parties. Unless the court orders otherwise, the party offering ~~any~~ exhibits of the kind described in subsection (b)(2) of this rule ~~shall~~must retain custody of ~~them~~it and be responsible to the court for preserving ~~them~~it in ~~their~~its condition as of the time admitted, until ~~any appeal is resolved or~~the time for appeal has expired ~~or after the mandate of the final reviewing court is filed.~~

(4) Access to Exhibits by Parties. In case of an appeal, any party, upon written request of any other party or by order of the court, ~~shall~~must make available any or all original exhibits in its possession, or true copies thereof, to enable ~~such other~~another party to prepare the record on appeal.

(5) Exhibits in Appeals. When a notice of appeal is filed, each party ~~shall~~must prepare and submit to the clerk ~~of this court~~ a list that designates which exhibits are necessary for the determination of the appeal and in whose custody they remain. Parties who have custody of exhibits so listed ~~shall be charged with the responsibility for their safekeeping and transportation~~must ~~safekeep and transport the exhibits~~ to the appellate court. All other exhibits that are not necessary for the determination of the appeal and that are not in the custody of the clerk ~~of this court~~ ~~shall~~must

remain in the custody of the respective party, ~~who shall be responsible for forwarding the same to the clerk of the appellate court.~~until the mandate of the final reviewing court is filed.

(d) **Contested Matters.** Prior to hearing, each party ~~shall have~~should mark~~ed~~ all ~~the~~ exhibits ~~it intends to be~~ introduce ~~by utilizing~~during the hearing using exhibit labels (stickers) obtained from the clerk. Movants ~~shall~~use consecutive numbers; respondents ~~shall~~ use consecutive letters.

RULE 9071-1

PROCEDURAL STIPULATIONS

L.R. 9071-1:

Title: The title is modified to clarify that the rule relates to procedural rather than substantive stipulations.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Stylistic changes have been made to subsection (b).
- (c) Subsection (c) has been amended to make the time limitations and imposition of costs applicable only to the continuances of trials. All other changes are stylistic.
- (d) A new subsection (d) has been added to deal with continuances in open court.

(a) **Procedural Requirement.** ~~No understanding or arrangement between the parties or counsel~~ An agreement affecting the course or conduct of a trial or hearing ~~shall~~ must be enforceable for any purpose unless signed in writing, signed by the parties, or made a part of the record by oral stipulation.

(b) **Court Approval - General.** ~~No~~ A stipulation between the parties relating to proceedings before the court or modifying a prior order of the court ~~shall~~ will not be effective until approved by the court.

(c) **Stipulations to Continue Proceedings.** ~~No~~ A stipulation between the parties to continue a hearing or trial before the court ~~shall~~ will not be effective unless approved by the court. Any motion for continuance of a ~~matter should~~ trial must be filed with the court not less than ~~three~~ 3 business days before the ~~hearing~~ trial. Unless good cause is shown, where a trial continuance is granted less than ~~three~~ 3 business days before a hearing or the trial date, the court ~~shall~~ may assess costs equally to the parties including, but not limited to, court costs, reporter costs, and the judge's travel costs and per diem, if any. The clerk ~~shall~~ must

bill the parties for the assessed costs and monitor the collection of the ~~same~~ costs for the court.

(d) **Continuance of Trial or Hearing Date.** The court may continue a trial or hearing on the date it is to be heard without further notice to parties other than those who appeared at the scheduled trial or hearing. Notice announced on the record at the time of the previously set trial or hearing will suffice.

RULE 9073-1
HEARINGS

L.R. 9073-1:

Title: The title has not changed.

Text:

- (a) Stylistic changes have been made to subsection (a).
- (b) Current subsection (b) requires the movant to file its motion prior to scheduling a hearing. This rule has been amended to allow a movant to schedule a hearing prior to filing the related motion. However, if the movant fails to file the motion within 3 business days, the court may strike the hearing and may sanction the offending party.
- (c) Stylistic changes have been made to subsection (c).
- (d) No changes have been made to subsection (d).
- (e) Stylistic changes have been made to subsection (e).
- (f) Stylistic changes have been made to subsection (f).
- (g) Stylistic changes have been made to subsection (g). The reason for notification of a withdrawal to the court is omitted as unnecessary.
- (h) Stylistic changes have been made to subsection (h).

(a) **Scope of Rule.** This rule applies to matters requiring a hearing in either a ~~bankruptcy~~ case or an adversary proceeding.

(b) **Setting Hearings.** The movant must obtain a hearing date and time on the court's calendar from the scheduling clerk for the judge assigned to the case. Unless modified by court order, hearings must be scheduled with sufficient time to serve ~~the~~ notice and to give parties in interest time to file a responsive ~~memorandum~~ ~~memoranda~~ as allowed in these Local Rules. ~~Hearings may not be scheduled until the motion~~

~~has been filed with the court. After a~~ The movant must file the motion within 3 business days after the hearing has been set. The court may strike the hearing if the motion is not filed timely without further notice to the movant, and may sanction any party that sets a matter for hearing but fails to timely file the applicable motion. After the hearing has been scheduled, ~~a person~~ the movant may not add or substitute other motions without the express permission of the scheduling clerk. The court may strike any motion that was added or substituted without permission.

(c) **Order of Hearings.** The court ~~may~~will direct the order in which hearings will be held to promote efficiency and justice.

(d) **Movant Responsible to Give Notice.** The movant is responsible for properly serving the motion and notice to all parties entitled to notice.

(e) **Cancellation of Hearings.** If the movant or other party wishes to cancel a noticed hearing for any reason, the movant or other party ~~shall~~must immediately give notice of the cancellation to the scheduling clerk and parties receiving notice. The court may assess costs against the movant or parties who fail to give adequate notice of the cancellation of a hearing.

(f) **Withdrawal of Motion.** A movant or party who does not intend to pursue a motion or objection ~~shall~~must immediately file a withdrawal of the motion and notify the scheduling clerk and parties in interest who received the motion. ~~If even if a~~the motion is withdrawn, the movant or party ~~shall still~~must attend the hearing unless excused by the court. A movant or party who fails to provide notice ~~pursuant to~~under this rule or to attend a hearing that has been scheduled may be assessed costs.

(g) **Withdrawal of Response to Motion.** A ~~party in interest~~ responding ~~to a motion,~~party who does not intend to ~~actively~~ argue its position at the hearing, ~~shall~~must immediately file a withdrawal of the response, notify the movant of ~~such~~the withdrawal, and notify the scheduling clerk ~~of the withdrawal so that the court will not be required to devote unnecessary resources to the motion.~~ The court may assess costs against a party ~~in interest who fails~~for failure to comply with this rule.

(h) **Failure to Appear at a Hearing.** Unless excused by the court ~~from attendance,~~ failure to appear at a hearing may be deemed either a waiver of the motion by the movant or a consent to the motion by the responding party ~~in interest.~~

APPENDIX A

APPLICATION FOR WAIVER OF THE CHAPTER 7 FILING FEE
FOR INDIVIDUALS WHO CANNOT PAY THE FILING FEE
IN FULL OR INSTALLMENTS

Appendix A:

Title: The title has been deleted.

Text: The text has been deleted because Local Rule 5080-1(c) has been deleted.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH

In re _____ Case No. _____

_____ Chapter 7

Debtor

APPLICATION FOR WAIVER OF THE CHAPTER 7 FILING FEE
FOR INDIVIDUALS WHO CANNOT PAY THE FILING FEE IN FULL OR IN
INSTALLMENTS

~~There is a court fee for filing a bankruptcy case. The fee is \$175 for cases filed under chapter 7 of the Bankruptcy Code.~~

~~If you cannot afford to pay the full fee at the time of filing, you may apply to pay the fee in installments. A form, which is available from the Clerk of Court, must be completed to make that application. If your application to pay in installments is approved, you will be permitted to file your petition, completing payment of the fee over the course of four to six months.~~

~~If you cannot afford to pay the fee either in full at the time of filing or in installments, then you may request a waiver of the fee by completing the attached form and filing it with the Clerk of Court. A judge will decide whether you have to pay the fee in order to avoid dismissal of your case.~~

~~Instructions. Please complete all questions in this application and then sign it on the last page.~~

~~If you and your spouse are filing a joint bankruptcy petition, then you both must provide information as requested and sign the application as applicant and co-applicant. If the answer to any question is "0" or "none," or the question is "not applicable", so indicate by writing "0", "none", or "not applicable (N/A)". If additional space is needed to answer any question or to explain your answer to any question, please use and attach a separate sheet of paper identified with your name and the number of the question.~~

~~1. Are you currently employed? Applicant: Yes _____ No _____~~

~~_____ Co-applicant: Yes _____ No _____ N/A _____~~

~~2. If you are currently employed, state the name and address of your employer, the length of your employment with that employer, and your monthly gross pay. Gross pay is pay before any deductions are taken. If you have more than one employer, please provide the information requested below about the other employer(s) on a separate sheet of paper and attach it to this application.~~

~~_____~~

~~Applicant~~

~~Co-applicant~~

~~Name and Address of Employer~~

~~Name and Address of Employer~~

~~Length of Employment~~

~~Length of Employment~~

~~Years Months~~

~~Years Months~~

~~Monthly Gross Pay \$~~

~~Monthly Gross Pay \$~~

~~If you are married and living with your spouse, but your spouse is not filing bankruptcy with you, state your spouse's monthly gross income:~~

~~\$~~

~~3. If you are currently unemployed, state the date of your last employment and your monthly gross pay during your last month of employment. Gross pay is pay before any deductions are taken.~~

~~Applicant:~~

~~Date of last employment (Month/Year)~~

~~Monthly gross pay during last month of employment \$~~

~~Co-applicant:~~

~~Date of last employment (Month/Year)~~

~~Monthly gross pay during last month of employment \$~~

4. State whether you (applicant and/or co-applicant) have received money from any of the following sources during the past twelve months, and, if so, the average monthly amount from that source. Prorate any money that was received weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate. If both the applicant and co-applicant expect to receive money from any source, please add the amounts together. Also state the amount you expect to receive from each source next month. Again, if both the applicant and co-applicant expect to receive money from any source, please add the amounts together.

	Did you receive money from this source during the past 12 months?	Average monthly amount during past 12 months	Amount expected next month
Self-employment	Yes ____ No ____	\$ ____	\$ ____
Income from real property (such as rental income) _____	Yes ____ No ____	\$ ____	\$ ____
Interest and dividends	Yes ____ No ____	\$ ____	\$ ____
Gifts	Yes ____ No ____	\$ ____	\$ ____
Alimony	Yes ____ No ____	\$ ____	\$ ____
Child Support	Yes ____ No ____	\$ ____	\$ ____
Retirement income from sources such as social security, private pensions, annuities, or insurance policies	Yes ____ No ____	\$ ____	\$ ____

Disability payments such as social security, ~~Yes~~ ____ ~~No~~ ____ \$ ____ \$ ____
other state or federal government, or
insurance payments

Unemployment payments ~~Yes~~ ____ ~~No~~ ____ \$ ____ \$ ____

Public assistance payments such as welfare ~~Yes~~ ____ ~~No~~ ____ \$ ____ \$ ____
payments

Other sources of money ~~Yes~~ ____ ~~No~~ ____ \$ ____ \$ ____
(specify: _____)

TOTAL \$ ____
\$ ____

~~5. State the amount of cash you (applicant and/or co-applicant) have on hand: \$ _____~~

~~____ State below any money you (applicant and/or co-applicant) have in savings, checking, or other
accounts in a bank or other financial institution.~~

Bank or Other Financial Institution:	Type of Account	Amount:
	such as savings,	_____
	checking, or CD:	
_____	_____	\$ _____
_____	_____	
_____	_____	\$ _____
_____	_____	

~~6. State below the assets owned by you (applicant and/or co-applicant). Do not list ordinary
household furnishings and clothing.~~

Home	Address: _____ _____ _____	Value: \$ _____ Amount owed on mortgages and liens: \$ _____
Other real estate	Address: _____ _____ _____	Value: \$ _____ Amount owed on mortgages and liens: \$ _____
Motor vehicle	Model/Year: _____	Value: \$ _____ Amount owed: \$ _____
Motor vehicle	Model/Year: _____	Value: \$ _____ Amount owed: \$ _____
Other	Description: _____ _____	Value: \$ _____ Amount owed: \$ _____

7. State below any person, business, organization, or governmental unit that owes you (applicant and/or co-applicant) money and the amount that is owed.

-

____ Name of Person, Business, or Organization that Owes You Money	____ Amount Owed
____	____
____	____
____	\$ _____
____	____
____	____
____	\$ _____
____	____
____	____

8. State the individuals who rely on you (applicant and/or co-applicant) for support. Indicate their relationship to you, their age, and whether they live with you.

Name	Relationship	Age	Does this person live with you?
			Yes _____ No _____
			Yes _____ No _____
			Yes _____ No _____
			Yes _____ No _____
			Yes _____ No _____
			Yes _____ No _____
			Yes _____ No _____
			Yes _____ No _____
			Yes _____ No _____
			Yes _____ No _____

9. Complete this question by estimating the average monthly expenses of you and your family. Prorate any payments that are made weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate. You may attach a duplicate copy of Schedule "J" instead of completing this question. Schedule J is a form that must be filed as part of your bankruptcy case.

_____ Check here if you are attaching Schedule "J" instead of completing this question.

_____ Check here if a joint petition is being filed and the debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "SPOUSE."

Rent or home mortgage payment (include lot rented for mobile home)	\$ _____
Are real estate taxes included? Yes _____ No _____	
Is property insurance included? Yes _____ No _____	
Utilities	
Electricity and heating fuel	\$ _____
Water and sewer	\$ _____
Telephone	\$ _____
Other _____	\$ _____
Home maintenance (Repairs and upkeep)	\$ _____

Food	\$ _____
Clothing	\$ _____
Laundry and dry cleaning	\$ _____
Medical and dental expenses	\$ _____
Transportation (not including car payments)	\$ _____
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$ _____
Charitable contributions	\$ _____

Insurance (not deducted from wages or included in home mortgage payments)	
Homeowner's or renter's	\$ _____
Life	\$ _____
Health	\$ _____
Auto	\$ _____
Other _____	\$ _____

Taxes (not deducted from wages or included in home mortgage payments)	\$ _____
--	---------------------

(specify) _____	
Installment payments	
Auto	\$ _____
Other _____	\$ _____
Other _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____
Payments for support of additional dependents not living at your home	\$ _____

Regular expenses from operation of business, profession, or farm	\$ _____
(attach detailed statement)	

Other _____	\$ _____
------------------------	---------------------

TOTAL MONTHLY EXPENSES	\$ _____
-----------------------------------	---------------------

10. ~~Do you (applicant and/or co-applicant) expect any major changes to your monthly income or expenses during the next four months?~~

~~Yes _____ No _____~~

~~If yes, describe:~~

11. Have you (applicant and/or co-applicant) paid an attorney any money for services in connection with this case, including the completion of this form, the bankruptcy petition, or schedules?

____ Yes _____ No _____

____ If yes, how much? \$ _____

____ If yes, provide the name, address, and telephone number of the attorney:

____ Have you (applicant and/or co-applicant) promised to pay or do you anticipate paying an attorney any money for services in connection with this case, including the completion of this form, the bankruptcy petition, or schedules?

____ Yes _____ No _____

____ If yes, how much? \$ _____

____ If yes, provide the name, address, and telephone number of the attorney:

12. Have you (applicant and/or co-applicant) paid anyone other than an attorney (such as a paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form, the bankruptcy petition, or schedules?

____ Yes _____ No _____

____ If yes, how much? \$ _____

____ If yes, provide the name, address, and telephone number of the person or service:

~~Have you (applicant and/or co-applicant) promised to pay or do you anticipate paying anyone other than an attorney (such as a paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form, the bankruptcy petition, or schedules?~~

~~Yes _____ No _____~~

~~If yes, how much? \$ _____~~

~~If yes, provide the name, address, and telephone number of the person or service:~~

~~13. Have you (applicant and/or co-applicant) previously filed for bankruptcy relief during the past six years?~~

~~Yes _____ No _____~~

~~If yes, provide the information requested below for each previous filing.~~

Case Number (if known)	Year filed	Location of filing	Did you obtain a discharge? (if known)
_____	_____	_____	Yes _____ No _____ Don't know _____
_____	_____	_____	Yes _____ No _____ Don't know _____
_____	_____	_____	Yes _____ No _____ Don't know _____
_____	_____	_____	Yes _____ No _____ Don't know _____
_____	_____	_____	Yes _____ No _____ Don't know _____

~~14. Please provide any other information that helps to explain why you are unable to pay the filing fee in installments.~~

~~15. Address of applicant's legal residence:~~

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

~~15. Address of co-applicant's legal residence:~~

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

~~Daytime phone number of applicant:~~

~~_____~~
~~_____(_____)_____~~

~~Daytime phone number of co-applicant:~~

~~_____~~
~~_____(_____)_____~~

~~Social security number of applicant:~~

~~_____~~
~~_____~~

~~Social security number of co-applicant:~~

~~_____~~
~~_____~~

~~I (we) declare under penalty of perjury that I (we) cannot currently afford to pay the filing fee in full or in installments and that the foregoing information is true and accurate. Perjury is a crime under the United States Code.~~

~~Executed on: _____~~

~~_____ Date _____ Signature of Applicant~~

~~_____~~

Date

Signature of Co-applicant

~~Form 19. CERTIFICATION AND SIGNATURE OF NON-ATTORNEY
BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)~~

Form 19:

Title: The title has been deleted.

Text: The text has been deleted because it replicates Official Bankruptcy Form 19, and is has been included in other official bankruptcy forms.

[Caption as in Form 16B.]

~~CERTIFICATION AND SIGNATURE OF NON-ATTORNEY~~

~~BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)~~

~~I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, I prepared this document for compensation, and that I have provided the debtor with a copy of this document.~~

~~Printed or Typed Name of Bankruptcy Petition Preparer~~

~~Social Security No.~~

~~Address~~

~~Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:~~ _____

~~If more than one person prepared this document, attach additional signed sheets conforming to the appropriate Official Form for each person.~~

~~x~~ _____

~~Signature of Bankruptcy Petition Preparer~~ _____ ~~Date~~

~~A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.~~

~~UNITED STATES BANKRUPTCY COURT~~

~~_____ District of _____~~

~~_____ In re~~

~~_____ Bankruptcy Case No.:~~

~~_____ Debtor~~

~~Chapter _____~~

~~_____ Address:~~

~~_____ Social Security No(s):~~

~~_____ Employer's Tax Identification No(s). [if any]:~~

~~DISCLOSURE OF COMPENSATION OF BANKRUPTCY PETITION PREPARER~~

~~1. Under 11 U.S.C. § 110(h), I declare under penalty of perjury that I am not an attorney or employee of an attorney, that I prepared or caused to be prepared one or more documents for filing by the above-named debtor(s) in connection with this bankruptcy case, and that compensation paid to me within one year before the filing of the bankruptcy petition, or agreed to be paid to me, for services rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:~~

~~For document preparation services, I have agreed to accept.....\$_____~~

~~Prior to the filing of this statement I have received.....\$_____~~

~~Balance~~

~~Due.....\$_____~~

~~2. I have prepared or caused to be prepared the following documents (itemize):~~

~~_____ and provided the following services (itemize):~~

~~3. The source of the compensation paid to me was:~~

~~_____ Debtor _____ Other (specify)~~

~~4. The source of compensation to be paid to me is:~~

~~_____ Debtor _____ Other (specify)~~

~~5. The foregoing is a complete statement of any agreement or arrangement for payment to me for preparation of the petition filed by the debtor(s) in this bankruptcy case.~~

~~6. To my knowledge no other person has prepared for compensation a document for filing in connection with this bankruptcy case except as listed below:~~

~~_____ NAME _____ SOCIAL SECURITY NUMBER~~

~~DECLARATION OF BANKRUPTCY PETITION PREPARER~~

~~I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.~~

~~Signature Social Security Number Date~~

~~Name (Print):~~

~~Address:~~

~~A bankruptcy petition preparer's failure to comply with the provisions of title 11 and The Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C § 110, 18 U.S.C § 156.~~

**FORM FOR REPORT OF PARTIES' PLANNING MEETING PURSUANT TO
FED. R. CIV. P. 26(f), FED. R. BANKR. P. 7026 AND LOCAL RULE 7016-1(b)**

Appendix A:

Title: The title has been changed because Appendix A has been deleted.

Text: No changes have been made to the text of the form except to correctly cross reference changed Local Rules.

[INSERT CAPTION STATED IN LOCAL RULE 9004-~~2~~-1(a)]

1. Parties' Planing Meeting. Pursuant to Fed. R. Civ. P. 26(f), Fed. R. Bankr. P. 7026 and Local Rule 7016-1, a meeting was held on (date) at (place), and was attended by:

a. *[Separately list attorneys representing plaintiff(s) and defendant(s), and pro se parties, and their addresses.]*

2. Initial Disclosure. The parties have discussed the nature and basis of their claims and defenses. The parties *[have exchanged or will exchange by date]* the information required by Fed. R. Civ. P. 26(a)(1) and Fed. R. Bankr. P. 7026.

3. Discovery Plan. The parties jointly propose to the court the following discovery plan:

[Use separate paragraphs or subparagraphs as necessary if the parties disagree.]

a. Discovery is necessary on the following subjects: *[Briefly describe the subject areas in which discovery will be needed].*

b. All discovery will be completed by no later than [specify date].

c. *[Specify whether discovery will (i) be conducted in phases, or (ii) be limited to or focused upon particular issues. If (ii), specify those issues and whether discovery will be accelerated with regard to any of them and the*

date(s) on which such early discovery will be completed.]

- d. The following discovery methods will be used:

____ Interrogatories ____ Requests for Admission

[For both of the above, specify the maximum number that will be served on any party by any other party and the number of days, following service, when responses are due.] ____ Oral Exam Depositions ____ Written

Question Depositions

[For both of the above, (i) specify the maximum number for the plaintiff(s) and the defendant(s), and (ii) indicate the maximum number of hours unless extended by agreement of the parties.]

- e. Reports from retained experts under Fed. R. Civ. P. 26(a)(2) and Fed. R.

Bankr. P. 7026 will be submitted on: [specify date] by plaintiff(s); [specify date] by defendant(s).

- f. Supplementations under Fed. R. Civ. P. 26(e) and Fed. R. Bankr. P. 7026 are

due: [specify time(s) or interval(s)].

4. Other Items.

[Use separate paragraphs/subparagraphs as necessary if the parties disagree.]

- a. The parties request a final pretrial conference in: [specify month and year].

- b. The cutoff dates for joining additional parties are: [specify date] for plaintiff(s);
[specify date] for defendant(s).

- c. The cutoff dates for amending pleadings are: [specify date] for plaintiff(s);
[specify date] for defendant(s).

- d. The cutoff date for filing dispositive or potentially dispositive motions is: [specify date].

- e. The potential for settlement is: ____ likely ____ unlikely
____ cannot be evaluated prior to: [specify date]

- f. Final lists of witnesses and exhibits pursuant to Fed. R. Civ. P. 26(a)(3) and Fed. R. Bankr. P. 7026 are due by: [specify date] from plaintiff(s); [specify date] from defendant(s).
- g. The parties should have [insert number] days after service of final lists of witnesses and exhibits to list objections under Fed. R. Civ. P. 26(a)(3) and Fed. R. Bankr. P. 7026.
- h. This case should be ready for trial by: [specify date].
- i. The estimated length of the trial is: [specify time].
- j. The parties [request/do not request] an expedited trial pursuant to the provisions of Local Rule 7016-1(d).

Dated this ____ day of _____, ~~199~~200_.

*[insert typewritten name of Attorney for
Plaintiff(s)]*
*[insert typewritten address and telephone number
of Attorney for Plaintiff(s)]*

*[insert typewritten name of Attorney for
Defendant(s)]*
*[insert typewritten address and telephone number
of Attorney for Defendant(s)]*

FORM FOR PRETRIAL ORDER REQUIRED BY LOCAL RULE 7016-1(h)

Appendix B:

Title: The title has been changed because Appendix A has been deleted.

Text: No changes have been made to the text of the form except to correctly cross reference changed Local Rules.

[INSERT CAPTION STATED IN LOCAL RULE 9004-~~2~~-1(a)]

This matter having come before the court on *[insert date]* at a pretrial conference held before *[insert name]* pursuant to Fed. R. Bankr. P. 7016; and *[insert name]* having appeared as counsel for plaintiff and *[insert name]* having appeared as counsel for defendant and *[insert name]* having appeared as counsel for *[insert name]*; the following action was taken: *[State]*.

[Delete foregoing if no final pretrial conference is held.]

1. **JURISDICTION.** The jurisdiction of the court is properly invoked under 28 U.S.C. § 1334. This is a *[core/noncore]* matter within the meaning of 28 U.S.C. § 157(b)(2). If noncore, the parties *[consent/do not consent]* to entry of a final judgment or order by the bankruptcy judge. The jurisdiction of the court is not disputed and is hereby determined to be present.

2. **VENUE.** Venue is laid in the *[insert either Central or Northern]* Division of the District of Utah.

3. **GENERAL NATURE OF THE CLAIMS OF THE PARTIES.**

(a) Plaintiff's claims. *[State brief summary.]*

(b) Defendant's claims. *[State brief summary.]*

(c) Other parties' claims. [*State brief summary for each party.*]

4. **UNCONTROVERTED FACTS.** The following facts are established by admissions in the pleadings or by stipulation of counsel. [*Set out uncontroverted facts, including admitted jurisdictional facts and all other material facts concerning which there is no genuine issue.*]

5. **CONTESTED ISSUES OF FACT.** The contested issues of fact remaining for decision are: [*State*]

6. **CONTESTED ISSUES OF LAW.** The contested issues of law in addition to those implicit in the foregoing issues of fact are: [*State*]

7. **EXHIBITS.** The following, constituting all of the exhibits to be introduced at trial, have been exchanged between the parties:

(a) Plaintiff's exhibits: [*List*]

(b) Defendant's exhibits: [*List*]

(c) Exhibits of other parties (if involved): [*List*]

(d) Exhibits shall be presented to and marked for identification by the clerk prior to the day of trial in accordance with Local Rule 9070-1(a) or (d). The handling of exhibits both during and after trial is governed by Local Rule 9070-1(b) and (c).

8. **WITNESSES.**

(a) In the absence of reasonable notice to opposing counsel to the contrary, plaintiff will call as witnesses: [*List*]; plaintiff may call: [*List*]; and plaintiff will use the following depositions: [*List*].

(b) In the absence of reasonable notice to opposing counsel to the contrary, defendant will call as witnesses: [*List*]; defendant may call: [*List*]; and defendant will use the following depositions: [*List*].

(c) In the absence of reasonable notice to opposing counsel to the contrary

[*identify additional party*] will call as witnesses: [*List*]; [*identify additional party*] may call: [*List*]; and [*identify additional party*] will use the following depositions: [*List*].

(d) In the event that other witnesses are to be called at the trial, a statement of their names and addresses and the general subject matter of their testimony will be served upon opposing counsel and filed with the court at least [*insert*] days prior to trial. This restriction shall not apply to rebuttal witnesses, the necessity of whose testimony reasonably cannot be anticipated before the time of trial.

9. **AMENDMENTS TO PLEADINGS.** There are no requests to amend pleadings.

[*or*] The following order was made regarding amendments to the pleadings: [*State*].

10. **DISCOVERY.** Discovery has been completed. [*or*] Discovery is to be completed by [*insert date*]. [*or*] Further discovery is limited to [*State*]. [*or*] The following provisions were made for discovery: [*State*].

11. **TRIAL SETTING.** The adversary proceeding is set for trial on [*insert date*] at [*insert time*]. Estimated length of trial is [*insert number*] days.

12. **SETTLEMENT.** Counsel have conferred respecting settlement of this matter and consider the possibility of settlement [*insert good/fair/poor*]. Trial will not be postponed to allow further settlement negotiations except upon a showing of good cause.

Dated this _____ day of _____, ~~19~~20__.

United States Bankruptcy Judge

The foregoing proposed pretrial order (prior to execution by the court) is hereby adopted this _____ day of _____, ~~19~~20__.

[INSERT SIGNATURE LINES, INCLUDING ADDRESS AND
TELEPHONE NUMBERS FOR ALL PARTIES]

